

# Overseas Investment

# Land Information Portfolio

Released under the Official Information Act 1982

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# 1 Introduction

This briefing on Overseas Investment supplements your initial briefing on the Land Information portfolio.

Overseas Investment is one of four regimes covered in supplementary briefings.

Figure 1: LINZ regimes covered in supplementary briefings

Regimes	Main activities	Main legislation
<b>Overseas investment</b>	Ensure permitted investments in New Zealand's sensitive assets by overseas persons provide net benefits to New Zealand	Overseas Investment Act 2005
<b>Property rights</b>	Administer a state-guaranteed regime of property rights, restrictions and responsibilities over land and property in New Zealand	Cadastral Survey Act 2002 Land Transfer Act 2017
<b>Geographic and property information</b>	Providing information that New Zealanders value when making land, sea and property-related decisions, as well as informing local and central government decision-making on issues like emergency response and climate change.	Valuers Act 1948 Rating Valuation Act 1998 New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008
<b>Crown land</b>	Administer Crown land, and the regime for acquiring and disposing of land in a way that balances both the public interest and private property rights	Land Act 1948 Public Works Act 1981 Crown Pastoral Land Act 1998

This briefing discusses:

- your role in relation to Overseas Investment
- LINZ's activity in the overseas investment regime
- the outlook for overseas investment
- suggested next steps.

## Facts at a glance

In 2022/23, investments worth more than \$24 billion were granted consent.

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 **484**

decisions were made, of which 39 were decided by ministers and 445 by LINZ.

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 **1093**

consent conditions were monitored.

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 **96%**

of delegated applications and 66 percent of ministerial applications were decided within their statutory assessment timeframes.

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 **114**

incidents triaged by the LINZ Enforcement Team for possible breaches of the Overseas Investment Act. 86 proceeded to further investigation, and 41 enforcement actions have been taken.

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 **298**

'one home to live in' applications were assessed, with 288 granted consent, 2 declined and 8 withdrawn. All of these were decided within the assessment timeframe, taking an average of 3.5 processing days.

## 2 Your role as Minister for Land Information

Your main role in relation to overseas investment is as a decision-maker under the Overseas Investment Act 2005. The overseas investment regime ensures that investment in sensitive assets (land and residential property, significant business assets, and fishing quota) by overseas persons benefits New Zealand.

### 2.1 The Overseas Investment Act 2005

The purpose of the Act is to acknowledge that it is a privilege for overseas persons<sup>1</sup> to own or control sensitive New Zealand assets. It does this by:

- requiring overseas investments in those assets, before being made, to meet criteria for consent
- imposing conditions on those overseas investments
- ensuring that transactions are not contrary to New Zealand's national interests.

The Act also aims to manage risks associated with transactions by overseas persons. For example, risks to National Security and Public Order (NSPO).

The Minister of Finance sets overseas investment policy and the Treasury has responsibility for maintaining the Act and advising on overseas investment policy. Toitū Te Whenua Land Information New Zealand (LINZ) is the regulating department under the Act, and the Chief Executive of LINZ is the regulator under the Act.

**Annex 1** provides an overview of your main working relationships as Minister for Land Information.

You may wish to explore opportunities to make changes to the overseas investment regime, for example delegations, Build-to-Rent and farm land to forestry. If so, The Treasury can provide advice to you, including options for delivery. As regulator, LINZ will support you and your colleagues with advice on the regulatory implications of any proposed policy changes.

<sup>1</sup> An overseas person is either:

- a person who is not a New Zealand citizen
- a person who is not ordinarily resident in New Zealand
- an entity incorporated overseas
- an entity more than 25% owned or controlled by overseas investors
- a New Zealand individual or entity investing on behalf of any of the above.

## 2.2 Transactions under the Act

Approximately 15 percent of overseas investment in New Zealand is screened under the Act. The remaining 85 percent of overseas investments are considered low risk because they are investments in non-sensitive assets, or they are exempt under the Act. This reflects the Act's purpose of managing the risks associated with overseas investment.

Only overseas persons who acquire a sensitive New Zealand asset require consent. There are three broad classes of sensitive New Zealand assets:

- sensitive land (including residential land)
- significant business assets
- fishing quota.

An overseas investment transaction can involve more than one type of sensitive asset. Overview of the various sensitive assets and pathways for consent under the Act are enclosed with this briefing (see **Annex 2**).

Some consent applications are also subject to a national interest assessment that considers whether the investments are contrary to New Zealand's national interest. National interest assessment is mandatory for some applications, but the Minister of Finance can also choose to call-in any application for a discretionary assessment.

The Act also contains a National Security and Public Order (NSPO) notification regime for transactions in strategically important businesses not normally captured by the Act. Some transactions must be notified to LINZ for screening, for example, an international defence company acquiring a business specialising in optical lenses to integrate with defence technology. Other notifications are voluntary, and you have the right to request a NSPO assessment.

## 2.3 Recent application volumes

To give you a sense of scale, in the 2022/2023 year, ministers and LINZ decided 484 applications, with 94 percent decided within their assessment timeframe. Of these, 38 decisions were made by the Associate Minister of Finance and the Minister for Land Information.<sup>2</sup>

**Annex 3** provides an overview of the overseas investment workflow in 2022/2023.

In the 2023/2024 year to date, ministers and LINZ have decided 208 applications.<sup>3</sup>

<sup>2</sup> A further decision was made by the Associate Minister of Finance and the Minister for Oceans and Fisheries.

<sup>3</sup> As at 16 October 2023.

# 3 Responsibilities under the Act

## 3.1 Your role

As Minister for Land Information, you are a decision-maker under the Act. You make decisions on applications for consent where they involve:

- significant business assets
- sensitive land, alongside the Minister of Finance or their delegate.<sup>4</sup>

LINZ will provide you with advice outlining the current and upcoming applications which require your decision. LINZ officials are available to discuss these decisions with you.

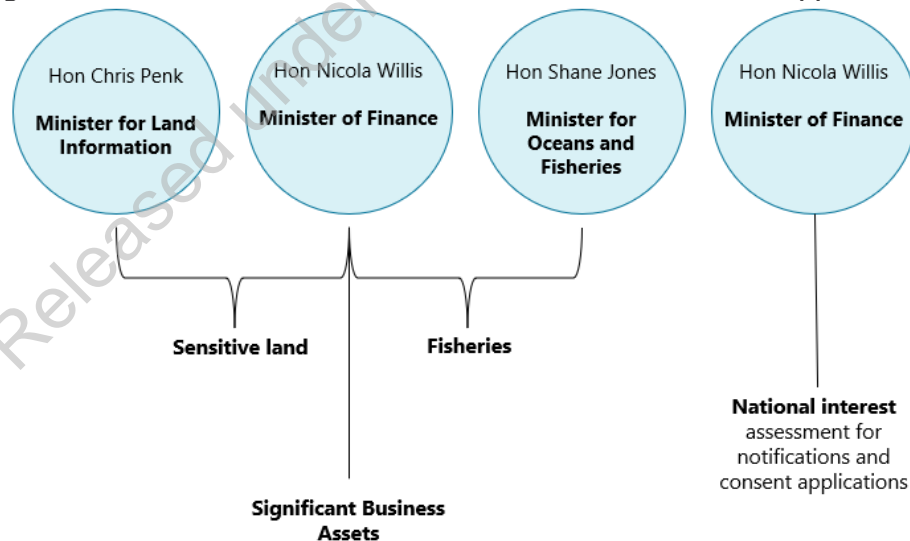
## 3.2 Other ministers' roles

In addition to the roles listed above, other ministers have roles in overseas investment matters under the Act.

The Minister of Finance has responsibility for setting overseas investment policy, making decisions on NSPO notifications, and deciding National Interest Assessments. The Treasury has responsibility for overseas investment policy and legislation.

The Minister for Oceans and Fisheries and the Minister of Finance are joint decision makers in relation to fishing quota applications.

Figure 2: National interest assessment for notification and consent applications



<sup>4</sup> The Minister of Finance is the other decision-maker on consent applications for sensitive land under the Act, but may delegate this responsibility to an Associate Minister of Finance as has been the case historically.

### 3.3 LINZ's role

LINZ is the regulating department under the Act, and the Chief Executive of LINZ is the regulator under the Act.<sup>5</sup> The overseas investment function sits with LINZ's Regulatory Practice Group, and is responsible for six regulatory functions relating to overseas investment:

- assessment
- monitoring
- enforcement
- intelligence
- engagement
- information and education.

The fees overseas investors pay when submitting their application primarily fund LINZ's overseas investment work. These fees are set in regulations. The Minister of Finance must commence a review of fees and charges at least once every four financial years. LINZ also has time-limited Crown funding for the compliance function (enforcement and intelligence) and the NSPO regime.

### 3.4 Ministerial Directive Letter

The Act provides for the Minister of Finance to direct LINZ on how to regulate transactions under the Act, including the government's policy approach to overseas investment in sensitive New Zealand assets and matters relating to LINZ's duties.

The current Ministerial Directive Letter was issued by the Minister of Finance on 24 November 2021 (**Annex 4**). While this letter is legally binding on LINZ, it does not bind you. However, you would expose yourself to increased legal risk if you acted contrary to the directions or policy contained in the letter.

LINZ can support you to engage the Minister of Finance and The Treasury if you would like to review and update the Ministerial Directive Letter.

<sup>5</sup> The Minister of Finance has designated the Chief Executive of LINZ as the regulator under the Act.



## 3.5 Delegated decision-making by LINZ

Ministers have historically delegated some decision-making under the Act to LINZ. The current delegations are set out in a Designation and Delegation Letter dated 24 November 2021 (**Annex 5**). This letter continues to apply until a new letter is issued.

Under current delegations LINZ decides lower-risk applications (Figure 1). This means ministers decide applications for higher sensitivity assets such as large areas of farm land, transactions that are high risk (either because of the nature of the investment or the investor), and transactions that have higher levels of public interest.

The delegations may be revised at any stage and LINZ can advise you on the process.

Figure 1: The applications and matters LINZ has decision-making responsibility for

Delegated application type	Rationale for delegation
All overseas investment applications for significant business assets	<ul style="list-style-type: none"> <li>• Medium volume.</li> <li>• Assessment is limited to the investor test.</li> <li>• Less room for ministerial judgement.</li> </ul>
All overseas investment applications for residential-only land	<ul style="list-style-type: none"> <li>• Very high volume.</li> <li>• Lower sensitivity.</li> <li>• Largely bright-line tests with less room for ministerial judgement.</li> </ul>
Some overseas investment applications for otherwise sensitive land <sup>6</sup> , including:	
<ul style="list-style-type: none"> <li>• residency-based applications</li> </ul>	<ul style="list-style-type: none"> <li>• Assessments are largely limited to investor test and residency assessment.</li> <li>• Less room for ministerial judgment.</li> </ul>
<ul style="list-style-type: none"> <li>• where total consideration is less than \$2 million</li> </ul>	<ul style="list-style-type: none"> <li>• Value threshold is generally a reliable indicator of less important and lower risk investments, such as lifestyle blocks and less valuable land.</li> </ul>
<ul style="list-style-type: none"> <li>• where all interests sought to be acquired in the relevant land are less than freehold, such as leases, but not pastoral leases, <i>profits à prendre</i> and mortgages</li> </ul>	<ul style="list-style-type: none"> <li>• Lower sensitivity interests in land.</li> </ul>

<sup>6</sup> Land that is sensitive for reasons other than because it is residential land.

Delegated application type	Rationale for delegation
<ul style="list-style-type: none"> <li>• where the land does not include non-urban land greater than 5 hectares, or where the land includes non-urban land greater than 5 hectares, but:               <ul style="list-style-type: none"> <li>○ the total area of land is less than 30 hectares,</li> <li>○ the consideration is less than \$20 million, and</li> <li>○ the application is not for a freehold interest in land that adjoins foreshore or a lakebed.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Parameters are objective, easily applied and focus on smaller (both in terms of value and size) investments in rural land in line with the principle that lower-risk investments should be delegated.</li> <li>• To best manage volume and workload associated with this category of applications.</li> </ul>
<ul style="list-style-type: none"> <li>• less than 25 percent increase in existing ownership or control interest</li> </ul>	<ul style="list-style-type: none"> <li>• Smaller acquisitions and increases in shareholding that are low risk because applicant has previously received consent.</li> <li>• Delegation is limited to small increases in shareholding.</li> </ul>
<ul style="list-style-type: none"> <li>• one-off applications under the special forestry test</li> </ul>	<ul style="list-style-type: none"> <li>• Largely limited to investor test and maintaining status quo with existing arrangements for the land.</li> <li>• Less room for ministerial judgement.</li> </ul>
<p><b>All applications for variation of an existing consent</b></p>	<ul style="list-style-type: none"> <li>• Potentially high-volume applications.</li> <li>• Low risk as applicant has already received consent and is subject to binding conditions of consent.</li> </ul>
<p><b>All applications for individual exemptions</b></p>	<ul style="list-style-type: none"> <li>• Usually highly technical.</li> <li>• Potential for increased volumes.</li> <li>• Make ministerial workloads manageable.</li> </ul>
<p><b>Initial assessment of notifications under the NSPO regime</b></p>	<ul style="list-style-type: none"> <li>• LINZ undertakes an initial assessment to assess whether an investment is caught under the NSPO regime and, if so, whether it could pose a significant risk. If LINZ considers there may be such a risk, a full assessment will be completed and referred to you for decision.</li> </ul>

## 4 Decisions you will likely make

This section sets out the types of decisions you will likely make under current delegations. The delegations may be revised at any stage and LINZ can advise you on the process. LINZ will provide you with a detailed assessment report relating to each application you decide. LINZ can also provide you with advice to support your decision making.

### 4.1 Benefit to New Zealand consent decisions

Benefit to New Zealand decisions are made by you and the Minister of Finance (or delegate). Some decisions are delegated to LINZ.

Ministers currently make decisions on acquisitions of large areas of land under the benefit to New Zealand test including the conversion of farm land to forestry.

Broadly, this pathway requires that overseas investors must:

- satisfy an investor test, by demonstrating they are not unsuitable to own or control sensitive New Zealand assets (in relation to character and capability)
- demonstrate that the proposed investment will benefit New Zealand.

The benefit to New Zealand test requires an assessment of the likely benefits of the investment, regarding various benefit factors, compared to the existing state of affairs. The weighting and importance of each benefit factor is a matter for the decision-maker.

A key area of Ministerial interest has been the acquisition of farm land for conversion to forestry. In August 2022 the special forestry test was amended to reduce the scope of forestry investments that could rely on this pathway. Overseas investment applications to acquire existing forests can still use the special forestry test, but applications to acquire farm land for conversion to forestry must now meet the benefit to New Zealand test.

The benefit to New Zealand test gives decision-makers broader discretion to take into account the sensitivity of the land being acquired for conversion. Since the amendment, LINZ has received 18 applications for consent for farm land to forestry conversions. To date, four applications have been granted and seven have been declined by Ministers. Currently, there are seven remaining applications which will be sent to Ministers for decision.

Decisions on standing consents are made by you and the Minister of Finance (or delegate). Some decisions are delegated to LINZ.

## 4.2 Standing consents

Overseas investors may apply for a standing consent if they have a proven track record as a quality investor and are investing in residential land development or production forestry. If granted, a standing consent allows investors to obtain consent before identifying the properties they want to buy.

A standing consent covers a predetermined number of transactions and has a use-by date. Consent holders must notify us each time they use a standing consent to complete a transaction.

## 4.3 Farm land advertising exemptions

Farm land advertising exemption decisions are delegated to LINZ. The previous Minister for Land Information called in applications involving a change of land use.

Overseas investment applications to acquire farm land are generally required to meet the farm land offer criterion. This requires the farm land to be offered on the open market to persons who are not overseas persons for a period of 30 working days prior to any agreement to purchase the property being entered into with an overseas investor.

Applicants can apply to exempt an investment from the advertising requirements due to circumstances of the investment or the nature of the land. To grant an exemption, the decision-maker must consider the circumstances are such that:

- it is necessary, appropriate or desirable to provide an exemption, and
- the extent of the exemption is not broader than is reasonably necessary.

LINZ has recently processed a number of applications for farm land advertising exemptions for solar farm developments. The due diligence requirements typically required for solar sites makes the advertising requirement difficult to meet without an exemption.

## 5 Decision-making process

The Act sets out what decision-makers (ministers or LINZ) must consider when deciding whether to grant or decline to grant consent to an overseas investment.

When considering whether to grant consent to an overseas investment, the minister or ministers:

- must only consider the criteria and factors that apply to the relevant category of overseas investment
- may consult with others
- must grant consent if satisfied that all of the criteria are met
- must decline to grant consent if not satisfied that all of the criteria are met.

LINZ will provide you with information and advice to inform your decisions. This advice will include detailed guidance on the legal tests that apply.

### 5.1 Working with you

LINZ would like to hear how it can best support you in your decision making under the Act. LINZ will be in contact with your office to determine what assistance it can provide you.

LINZ can provide you and other relevant ministers with a weekly report summarising:

- applications currently being assessed that will soon be provided to ministers for a decision, and when LINZ expects the applications to be sent to you
- new applications waiting for assessment, to support ministers to decide whether to call-in any delegated decision-maker.

LINZ will discuss how you would like to undertake your decision-making functions alongside the Minister of Finance (or delegate).

LINZ is available to you and your office to provide advice and information. This includes options for improving the efficiency of processing applications in specific industries or pathways.

## 5.2 Assessment timeframes

Assessment timeframes were introduced on 24 November 2021.<sup>7</sup> They provide an end-to-end timeframe (including ministerial decision-making) for the assessment of an application, dependent on the pathway. This gives investors greater certainty about how long a decision will take.<sup>8</sup>

In the 2022/2023 financial year, 94 percent of applications were decided within their assessment timeframes.

Timeframes for common applications include:

- 10 working days for one-home-to-live-in
- 30 working days for exemptions or time extensions
- 35 working days for significant business assets
- 55 working days for applications which include a national interest or NSPO assessment, the residential land development pathway, or the special forestry test pathway
- 70 working days for the benefit to New Zealand pathway (non farm land)
- 100 working days for the benefit to New Zealand pathway (farm land).

There are only limited circumstances in which a timeframe can be paused or extended. LINZ aims to allow at least 20 working days for ministerial decision-making when providing reports to ministers for a decision. Further information about assessment timeframes is included in an A3 overview in **Annex 2**.

From time to time, commercial or other legal deadlines (such as timeframes under the takeovers code, or the need to disclose information to a securities exchange) will drive a need for a decision to be made earlier than a statutory timeframe.

Investments often involve strict commercial timeframes and investors rely on timely decision-making by LINZ and ministers. LINZ will indicate if there are commercial deadlines that apply to an application or transaction, along with the assessment timeframe that applies to an application and when a decision is due.

## 5.3 “Calling in” delegated applications

You have discretion to make decisions on applications instead of the delegated decision-maker (LINZ). This is known as “calling in” a consent application or notification.

<sup>7</sup> Under the Overseas Investment Amendment Act 2021.

<sup>8</sup> There is no recourse for an applicant if the timeframes are not met.

LINZ can provide you with further information about any application you may be considering calling in. LINZ may recommend that ministers consider calling in certain applications to decide. This could be because the overseas investment:

- is of high public or media interest
- includes sensitive land that is significant in size or in terms of sensitivity.

Figure 3: Examples of applications that have been called in

#### Applications called in for a substantive decision

- farm land advertising exemptions when the investment involves a change of use
- a residential standing consent application
- special forestry test one-off consent applications where the investment involved a change of use from farm land (prior to the law change in August 2022)
- high-profile benefit to New Zealand applications due to the public interest in these decisions
- change of use of farm land. The previous Minister for Land Information indicated that all decisions relating to the change of use of farm land to a non-farming use should generally be decided by ministers.

## 5.4 Publication of decisions

LINZ publishes a summary of each consent decision with commercially sensitive information redacted on its website at the end of the month following the month the decision was made (for example, an August decision will be published at the end of September). A newsletter advises subscribers of the decisions that have been published, along with any recent overseas investment news.

Interactive dashboards are also available on LINZ's website. These show information about overseas investment decisions by pathway, industry, location and country of ownership.

LINZ receives regular requests for assessment reports under the Official Information Act 1982, both from investors' advisors for the purpose of obtaining precedents and from media or the public. Responses to Official Information Act requests are generally published on LINZ's website.

## 6 LINZ's role in addition to assessment

### 6.1 Monitoring

LINZ monitors consent holders' compliance with their consent conditions to ensure overseas investors deliver the promised benefits of their investments in sensitive assets.

LINZ takes a risk-based approach by setting consent conditions, and reporting obligations for consent holders, that reflect the risk of both the investor and their investment.

In the 2022/2023 financial year, 1,093 conditions of consent were monitored.

### 6.2 Enforcement

The enforcement function maintains the integrity of the overseas investment regime by providing a credible deterrence against offending, and ensures public confidence in the regime.

Overseas persons must provide LINZ with true and correct information, and LINZ enforces consent holders' compliance with their consent conditions. LINZ works with consent holders to resolve instances of non-compliance outside of their control (such as unforeseen market conditions or environmental factors). Where non-compliance cannot be resolved, LINZ typically requires disposal of the sensitive assets or will seek other remedies such as civil pecuniary penalties.

LINZ also investigates instances of serious offending where overseas persons have sought to circumvent the Act by acquiring sensitive assets without consent. This circumvention typically involves the use of associates to hold assets on the overseas person's behalf, or the adoption of artificial structures designed to conceal beneficial ownership. LINZ takes civil or criminal proceedings seeking civil pecuniary penalties or fines, disposal of the sensitive assets, or other appropriate remedies.

LINZ publicises enforcement action to achieve the strongest possible general deterrence.

### 6.3 Intelligence

The LINZ intelligence function serves two primary purposes.

The first is to maintain connection to the New Zealand intelligence community, ensuring that these relationships can be used to inform our NSPO and national interest assessments.



The second is to produce intelligence information for an internal audience. This information looks across the breadth of our investment pathways to understand emerging risk and identify issues for senior decision-makers to be aware of and start developing responses to.

## 6.4 Engagement, information, and education

LINZ regularly engages with stakeholders including the general public. The [linz.govt.nz](http://linz.govt.nz) website has detailed information relating to overseas investment for overseas investors and New Zealanders. LINZ also holds seminars for professionals involved in the consent process including lawyers, real estate agents, and industry groups.

LINZ engages with consent holders through site visits. These allow staff to monitor the progress of investments, ensure conditions of consent are being complied with, and engage with investors directly on issues in their respective industries.

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## 7 Outlook

The overseas investment regime has proven to be agile in adapting to change. Ministers are supported by LINZ and The Treasury to update directives in relation to delegated applications for investment. Where a directive is insufficient alone, amendments to the Act through legislative change can be proposed to address new areas of concern, or to amend specific pathways of investment.

The current directives and delegations can be amended or changed. There are opportunities look at the wider government context and how this portfolio sits alongside other portfolios (such as trade, economic development, infrastructure or primary industries). We can adapt to any changes you would like to see made.

## 8 Next steps

LINZ is ready to respond to your directions on priorities for the overseas investment regime as part of your Land Information portfolio responsibilities. LINZ can provide you with advice on the regulatory implications of any proposed overseas investment policy.

LINZ will also provide advice on implications for the overseas investment regime as wider government priorities are identified.

LINZ will inform you if an application you are the decision-maker for is received and work with your office to provide you with the information you need to decide following LINZ's assessment.

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# Annex 1 Critical Relationships

Your main working relationships as Minister for Land Information in relation to overseas investment are with other ministers.

Other Ministers	
Minister of Finance	<ul style="list-style-type: none"> <li>Decision-making in relation to consent applications for sensitive land, national interest and national security and public order transactions.</li> </ul>
Minister for Oceans and Fisheries	<ul style="list-style-type: none"> <li>Decision-making in relation to consent applications for fishing quota.</li> </ul>
Māori and iwi	
Māori	<ul style="list-style-type: none"> <li>Where an interest from iwi is identified in relation to an investment, LINZ will engage with the relevant iwi as part of the assessment of the application.</li> </ul>
Central Government	
Treasury	<ul style="list-style-type: none"> <li>Treasury has responsibility for overseas investment policy and legislation.</li> </ul>
Other government agencies	<ul style="list-style-type: none"> <li>LINZ consults with other government departments to ensure that it has all the relevant information to assess an application. The department consulted depends on the type of application and investment.</li> </ul>
Standing committee for Overseas Investment	<ul style="list-style-type: none"> <li>The standing committee for overseas investment includes participants from across government. It meets to contribute towards and review national interest assessments. The committee looks across the government system to obtain and use a wide range of information.</li> </ul>

## Annex 2 Overview of the Overseas Investment Act and Investment Pathways

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# Overview of the current Overseas Investment Act

Regulating overseas investment into New Zealand

## An overseas person who acquires a sensitive asset requires consent under the Overseas Investment Act 2005

Toitū Te Whenua Land Information New Zealand (LINZ) assesses applications, and then either they, or Ministers, make a decision on the application.

## Role of LINZ

LINZ regulates overseas investment in New Zealand's sensitive land, significant business assets, and fishing quota. LINZ assesses notifications, and applications for consent under the Overseas Investment Act 2005. LINZ also monitors and enforces compliance with the Act.

## Changes to the Overseas Investment Act

Reform of New Zealand's overseas investment law supports overseas investment into New Zealand by simplifying the Overseas Investment Act 2005 and reducing the screening of low-risk transactions. The reforms also ensure that the right checks and balances are in place to protect New Zealand's economy, communities, and national security.

## An overseas person is either

- a person who is not a New Zealand citizen
- a person who is not ordinarily resident in New Zealand
- an entity incorporated overseas
- an entity more than 25% owned or controlled by overseas investors
- a New Zealand individual or entity investing on behalf of any of the above

## An investment covered by the Act could be made by

- buying the asset
- investing in the asset
- leasing for more than three years
- acquiring shares or securities
- initiating a takeover of the asset

## Further information

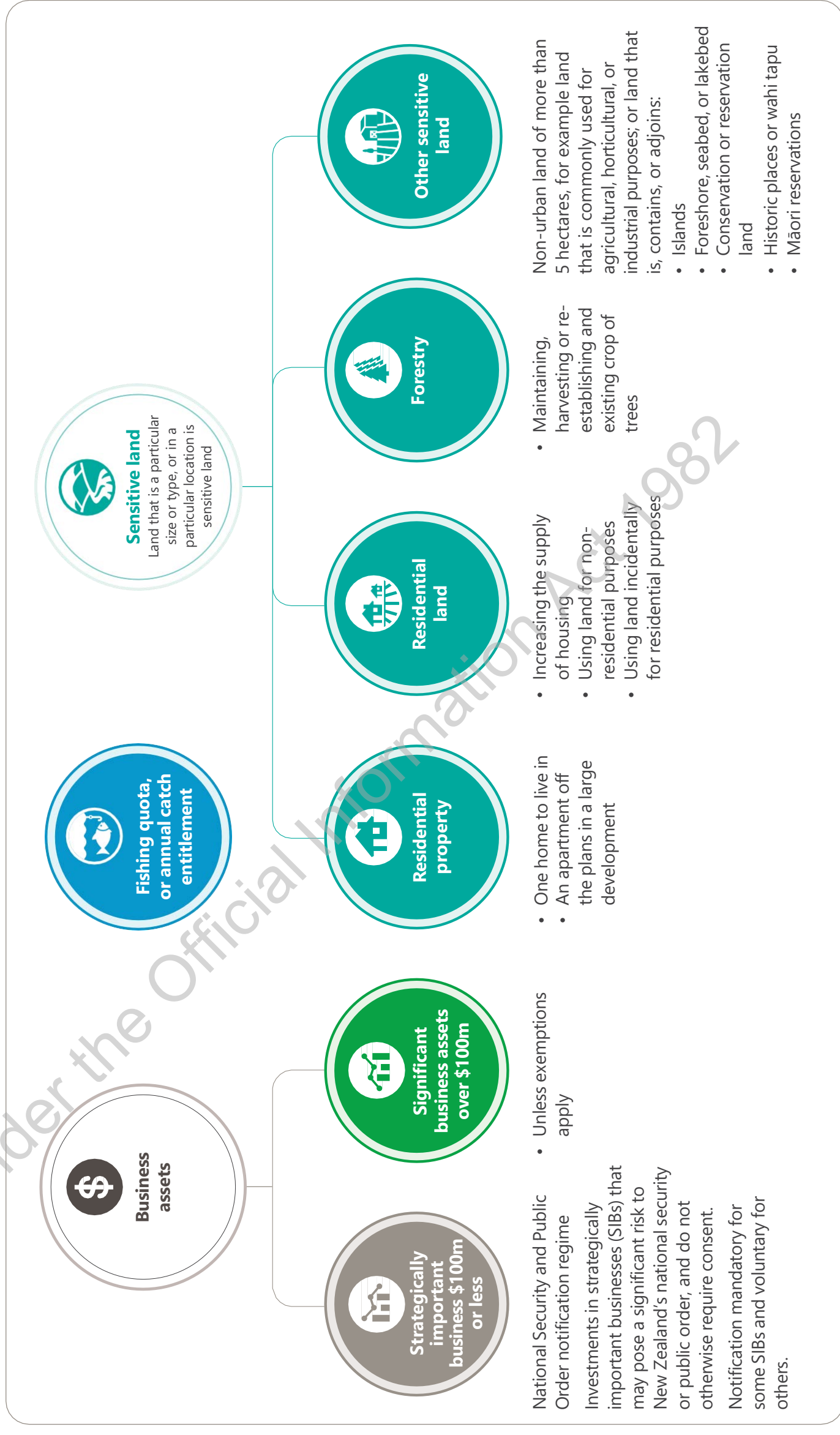
More information on the overseas investment regime, and copies of the current Ministerial Directive Letters and delegation of functions, duties and powers are on the Toitū Te Whenua website [linz.govt.nz](http://linz.govt.nz).

Overseas Investment Act 2005 and Overseas Investment Regulations 2005 are available on the New Zealand legislation website [legislation.govt.nz](http://legislation.govt.nz).

New Zealand's foreign investment policy and national interest guidance is available on the Treasury website [treasury.govt.nz](http://treasury.govt.nz).

## Sensitive assets

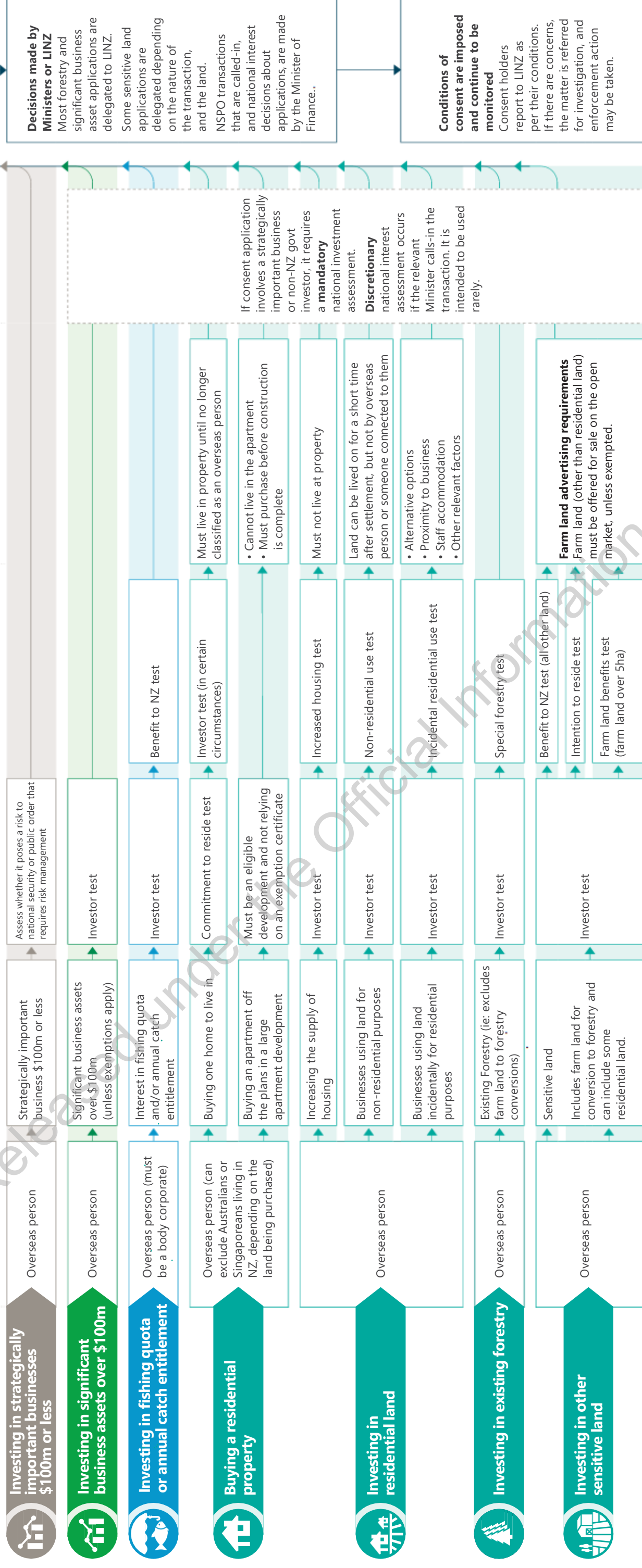
Transactions can involve more than one type of sensitive asset



# Current investment pathways

The different criteria that apply

## Pathways



## Summary of tests

**Benefit test** – Assesses whether the investment provides benefit to New Zealand, based on 7 benefit factors set out in the Overseas Investment Act 2005. A current state assessment is applied to ensure the benefit is additional to what currently exists.

**Commitment to reside test** – Assesses whether the applicant has a residence class visa, is committed to living in New Zealand, and that they are purchasing one residential property for the purpose of living in it.

**Farm land benefits test**– High relative importance on 'economic benefit' and 'oversight and participation by New Zealanders' factors, with a substantial benefit required in at least one of these.

**Incidental residential use test** – To ensure that the residential land is only lived on for reasons closely connected to the business.

**Increased housing test** – To increase the number of homes or places in long-term accommodation facilities (eg aged care facilities).

**Intention to reside test** – Applicants who intend to make New Zealand their permanent home, and where the land is sensitive land that is not classified as residential land, generally need to hold an appropriate visa and show actions and plans consistent with an intent to reside in New Zealand within 12 months.

**Investor test** – Determines whether an investor is suitable to own or control sensitive New Zealand assets, by assessing the risk they pose against character and capability factors.

**Investor test: repeat investor** who have satisfied the new investor test (in effect from 22 March 2021) do not need to satisfy the test again unless there is a change in circumstances.

**Investor test: standalone investor** – Investors may apply at any time for an assessment of their suitability to own and control sensitive New Zealand assets (e.g. in preparation for being part of a wider investment group/entity).

**National interest assessment** – Applies to consent applications where national interest concerns arise because, for example, it involves a strategically important business.

**Non-residential use test** – Ensures that residential land is only used for necessary business purposes.

**Special forestry test** – Streamlined investments in existing forestry.

**Standing consent** – Investors with a positive track record with LINZ may apply for this form of pre-approval when investing in forestry or residential land.

# Benefit to New Zealand

The Benefit to New Zealand test for overseas investments in sensitive land

## LINZ's role

Toitū Te Whenua Land Information New Zealand (LINZ) regulates overseas investment in New Zealand's sensitive land, significant business assets, and fishing quota. LINZ assesses applications for consent under the Overseas Investment Act 2005. It also monitors and enforces compliance with the Act.

## The Benefit to New Zealand test

Any overseas person who wishes to buy, lease, or otherwise acquire interests in sensitive land or fishing quota through the benefit to New Zealand pathway must show that the investment is likely to benefit New Zealand. The Benefit to New Zealand test gives a consistent and fair approach to how the benefits of a proposed investment are assessed.

## How the test works

The Benefit to New Zealand test assesses the likely benefits of a proposed overseas investment in seven broad categories or 'factors' compared to the current state.

A proposed investment may have different levels of likely benefits in each factor depending on the nature of the investment. There is no requirement to show likely benefit in every factor.

The test sets out what must be considered by the Minister (or LINZ under delegation) making the decision and how the relevant factors should be prioritised and considered.

A modified benefit test applies to investments in farm land, requiring greater importance to be placed on particular factors.

The benefit test applies to all proposed conversions of farm land to forestry, but conversions to production forestry are excluded from the modified farm land benefits test.

### More information

More information on the overseas investment regime, and copies of the Ministerial Directive Letters are available on the LINZ website:

[www.linz.govt.nz](http://www.linz.govt.nz).

The Overseas Investment Act 2005 is available on the legislation website: [www.legislation.govt.nz](http://www.legislation.govt.nz).



## The seven factors that are assessed

The Benefit to New Zealand test considers the benefits that a proposed investment in sensitive land will (or is likely to) bring in seven different categories. These categories and examples of what can be considered under them are set out below.



**Economic**

### Will there be an economic benefit to New Zealand?

- Create or retain jobs
- Introduce technology or skills
- Increase productivity
- Increase export receipts



**Environmental**

### Will there be a benefit to New Zealand's natural environment?

- Protection of native wildlife
- Protection of native plants
- Erosion control
- Improve water quality



**Access**

### Will New Zealanders gain or retain access?

- Recreational access such as fishing or walking
- Exercising kaitiakitanga or stewardship of important historical or spiritual sites
- Ability to cross the land to reach other sites or areas



**Heritage**

### Will historical sites be protected and accessible?

- Protection of sites of historical importance
- Access to sites of historical importance
- Access to sites of importance to Māori



**Government policy**

### Will this assist Government policy?

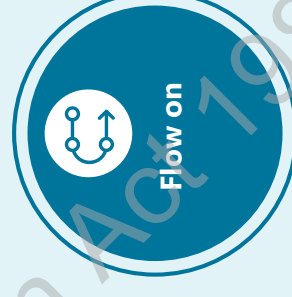
- Give effect to or advance significant Government policy



**Participation and oversight**

### Will New Zealanders participate?

- Oversight by New Zealanders
- Participation by New Zealanders



**Flow on**

### Will there be further benefits?

- Other benefits as a direct result of the investment





The proposed investment must be considered against all seven factors to determine which are relevant, and their relative importance.

The benefit must be considered under each relevant factor (e.g. number of jobs)

Deducting any directly comparable aspect of the current state (e.g. existing jobs) and any negative impact of the proposed investment (e.g. reduction in jobs).

Deductions must be directly comparable and must stop at zero.

**Note** – different rules apply to proposed overseas investments involving water bottling.



The Act requires a proportionate approach to considering the Benefit to New Zealand test.

The likely benefit must be proportionate to:

- (i) **the sensitivity of the land** such as the features of the land and the level of public interest; and
- (ii) **the nature of the overseas investment transaction** such as whether the interest is temporary or permanent.



What is likely to happen as a result of the investment is compared to the current situation (counterfactual assessment).

This allows the benefits the investment is likely to bring to New Zealand to be assessed and considered.



A modified Benefit to New Zealand test applies to farm land of more than 5 hectares.

The Farm Land Benefit test requires:

- high relative importance for economic and participation and oversight factors, and
- that the benefits under one or more of those factors are likely to be substantial for New Zealand.

Other factors may also be given high relative importance by the decision maker.

**Exceptions**

Conversions of farm land to production forestry.

A decision may be made to not apply the modified test, including where:

- the land has little or no productive capacity as farm land, and will be used promptly for industrial, commercial or certain residential development, or
- the transaction is minor or technical

Released under the Official Information Act 1982

# Assessment timeframes

Timeframes for assessing overseas investment applications

## Role of LINZ

Toitū Te Whenua Land Information New Zealand (LINZ) regulates overseas investment in New Zealand's sensitive land, significant business assets, and fishing quota. LINZ assesses applications for consent under the Overseas Investment Act 2005. It also monitors and enforces compliance with the Act.

## Assessment timeframes

Assessment timeframes are a working day allowance for processing applications for overseas investment consents, variations, and exemptions. The timeframes are for the end-to-end process and are set for each type of application by regulation.

### Phasing in

Meeting assessment timeframes will require significant improvements to timeliness at all stages of the process. There is likely to be a transitional period to make the necessary improvements.

### What if the timeframes aren't met?

Performance against assessment timeframes must be reported to Ministers and publicly. If timeframes are not met this does not mean applications will proceed automatically. There is no penalty applied to LINZ for not completing an assessment within timeframes and there are no grounds for compensation or other legal relief for applicants.

### More information

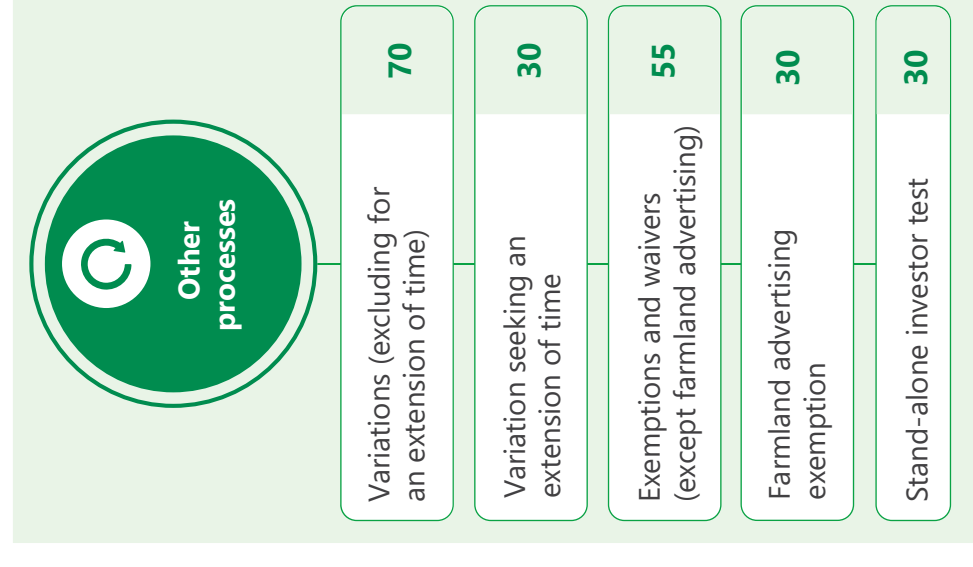
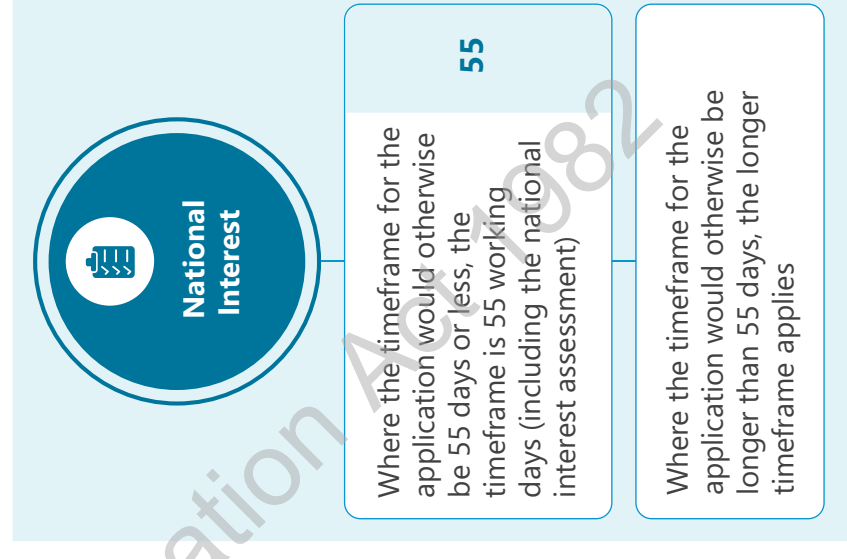
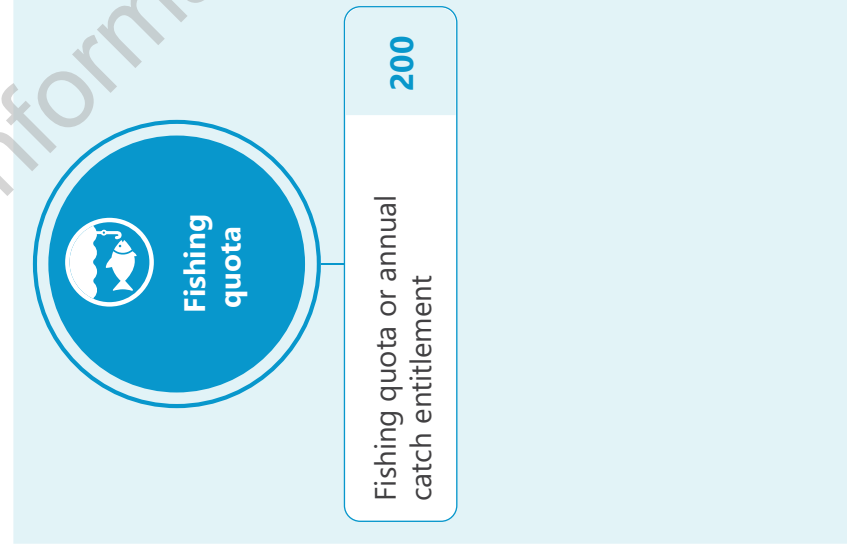
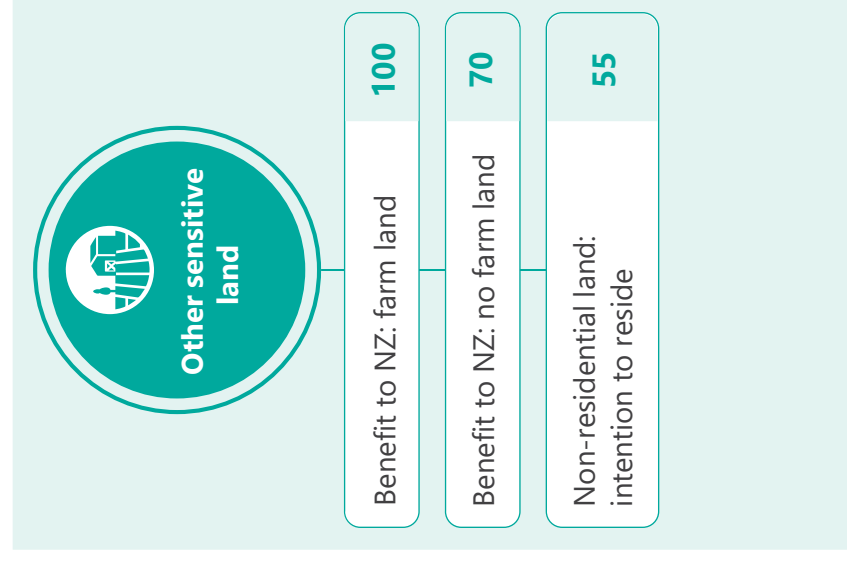
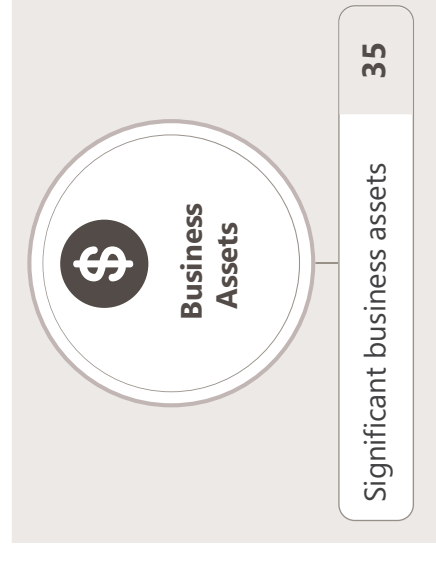
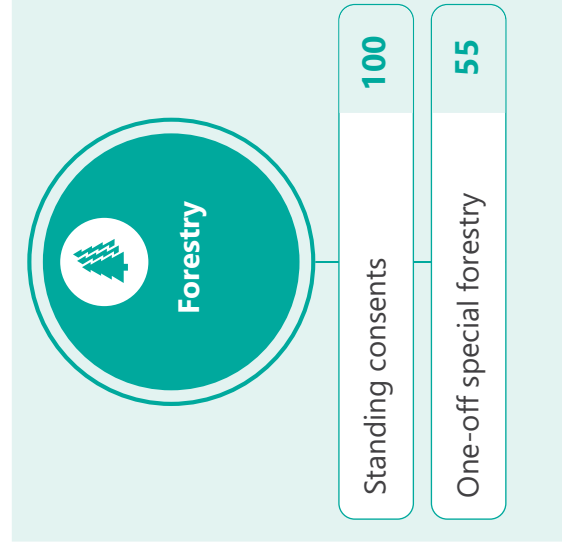
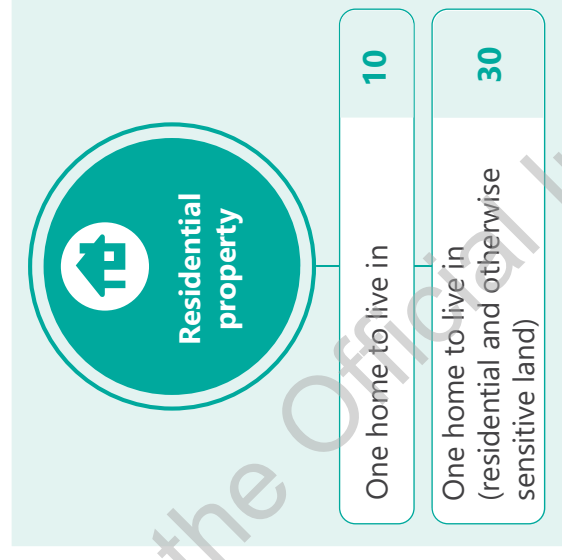
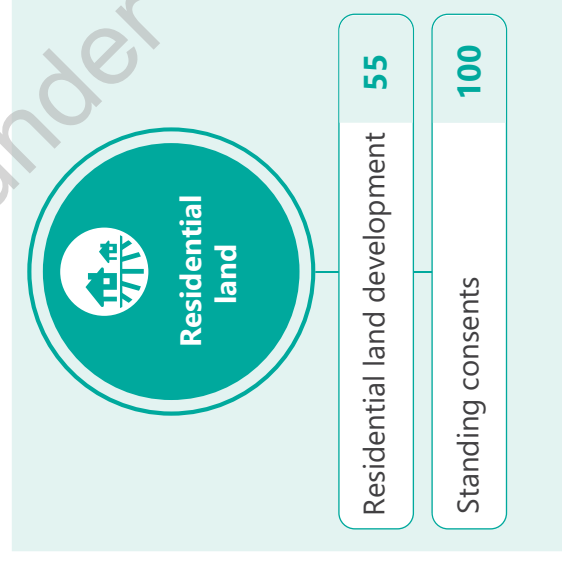
More information on the overseas investment regime and copies of the Ministerial Directive Letters are on the LINZ website: [linz.govt.nz/overseas-investment](http://linz.govt.nz/overseas-investment)

The Overseas Investment Act 2005 and Overseas Investment Regulations 2005 are available on the New Zealand legislation website: [legislation.govt.nz](http://legislation.govt.nz).



## Timeframes for assessing applications

Different assessment timeframes apply to different types of application within the overseas investment consent pathways. The timeframes reflect the complexity of the assessment and the amount of information gathering and analysis required. If an application is made under more than one pathway the longest of the timeframes applies. All timeframes are in working days.



## The assessment process

This sets out the general process followed for assessing applications. Every application is treated on a case-by-case basis. The steps required within each stage and the order in which they take place may differ.



The process can be paused during the initial assessment while LINZ is waiting for further information from the applicant.

The process can be paused more than once during the initial assessment. The pause will last until all the information requested has been provided.

The process can also be paused at any stage if LINZ asks the applicant to provide further information, pay a fee or comply with another requirement of the Act and the applicant does not do so within a reasonable time.



Assessment timeframes are extended by 30 working days if LINZ needs to take certain actions, including:

- Considering significant new information obtained after the 15-day initial assessment period
- Carrying out third party consultation or consider submissions
- Considering an application of significant complexity
- Enabling the Minister to obtain and consider information about an application being assessed under delegated powers
- Enabling the Minister to consider an application that is called in for decision or a national interest assessment



A longer timeframe can be applied if that is agreed with the applicant.

Timeframes do not apply if an applicant, or another person relevant to the application, is being investigated, or subject to enforcement action, for breaches of the Overseas Investment Act or regulations.

1

### Lodgement

An application arrives and is checked to ensure that:

- the lodgement fee has been paid (if required), and
- all required documentation is present.

If everything required is present the application is treated as received and moves to initial assessment.

Once an application is received and the lodgement fee is paid the assessment timeframe begins.

2

### Initial assessment

There is an initial 15 working days allocated to the initial assessment.

During this process an application is checked more thoroughly to ensure the application is complete and LINZ has enough information to begin its substantive assessment.

If LINZ requests further information from the applicant during this period, the process pauses until that information is provided.

Once an application is complete and ready to be accepted by LINZ, the assessment fee is due.

3

### Substantive assessment

During this process, LINZ assesses the application against the relevant legal criteria, policies, and Government priorities.

LINZ may engage with other government agencies, tangata whenua or other Māori groups, or other third parties to request their input and/or check information provided by the applicant.

Further information may be requested from the applicant. If the information is not provided within a reasonable timeframe, the process pauses until it is provided.

If LINZ plans to impose special conditions, the applicant may be consulted.

Advice is prepared for the relevant Minister (or Toitū Te Whenua under delegation) for decision, including standard conditions and a recommendation for special conditions if required.

At this point the monitoring compliance fee is due (if required).

4

### Decision

Once any necessary fee is paid, advice is provided.

The decision maker considers the advice and makes a decision on the application.

5

### Notification – timeframes end

The applicant is notified in writing of the decision, including any relevant conditions that have been applied.

The process is complete when the notification is sent.

# Overseas investment ecosystem

Regulatory controls for overseas investment in New Zealand

**New Zealanders need to trust that their interests are being safeguarded by clear, confident and connected regulation of overseas investment. We must demonstrate that we use our regulatory powers responsibly and strategically taking the long-term horizon into account.**

## Toitū Te Whenua Land Information New Zealand (LINZ)

- Work focuses on New Zealand's economic prosperity and community wellbeing, contributing to more homes and jobs.
- Mitigates risks of overseas investment causing harm to New Zealand.
- Supports decision makers to navigate the complex legislative environment.
- Monitors for non-compliance, and takes enforcement action where needed.

## Global economy

Around the globe, countries rely on foreign direct investment as a vital contributor to economic growth.

**\$1.4**  
trillion USD  
(approx)\*

### Global foreign direct investment

Foreign direct investment into New Zealand makes up almost 40% of our economy.

NZTE and MFAT are the primary agencies promoting New Zealand as a trade and investment destination. LINZ within a complex landscape spanning international, national and local contexts.

**\$108**  
billion  
NZD\*

### Overseas investment consent pathway

Overseas investment consent is required for land purchases or business acquisitions over \$100m NZD. Approximately 15% of foreign investment enters the overseas investment consent pathways.

**\$92**  
billion  
NZD\*

**Notifiable and unregulated foreign investment**  
Business assets less than \$100m where a controlling interest is being acquired.

## Overseas investment regulatory system

Through regulating investments in sensitive assets, New Zealand gains the benefits of overseas investment, while preventing potentially negative effects.

New Zealand's overseas investment regime operates in accordance with the Overseas Investment Act. For overseas people seeking to invest in New Zealand's sensitive or residential land and significant business investments (over \$100m NZD), LINZ acts as the gateway to foreign ownership.

### Authorising environment

The authorising environment defines LINZ's accountability to New Zealand to uphold its interests, which is shaped by social attitudes, trade interests, government priorities, court decisions, etc. It forms the context in which decisions are made, shapes the public response to those decisions and determines the value LINZ is seen to deliver to New Zealand.

**Treasury**  
Treasury sets the public policy and investment direction on foreign investment for New Zealand.

**LINZ**  
LINZ sets the operating environment and operational policy.

**Ministers**  
Decisions are made by  
• Minister of Finance,  
• Minister for Land Information,  
• Minister for Oceans & Fisheries.

### Advisors to investors

Overseas investors often seek advice and guidance on the detailed regulatory requirements. Advisors often initiate engagement with LINZ on behalf of investors.

- Key advisors include:
- Local and international lawyers
  - Investment advisers
  - Tax advisers
  - Financial advisers
  - Consultants (consenting specialists)
  - Accountants
  - Immigration advisers
  - Real estate agents
  - Lending institutions

### Regulating access to New Zealand's sensitive land, significant business assets, fishing quota and strategically important businesses

The overseas investment applications and notifications process navigates a legal framework to ensure that investments meet New Zealand's regulatory requirements:

- Specific pathways apply
- Legislative tests must be met
- Investment can't be contrary to New Zealand's national interests
- LINZ consults as appropriate before formulating recommendations to Ministers

LINZ consults with critical regulators and third parties.

### Decisions on overseas investment applications

Conditions are usually imposed on consents, and for some called-in business transactions.

Some decisions are delegated to senior LINZ officials. However applications can be called up for a Ministerial decision at any time.

### Investment enters NZ

Financial Primary industries Ministers

Land and environment interest  
Financial Primary industries Ministers  
Land use and housing  
Environmental and resource management  
Intelligence and law enforcement  
Borders & trade

If consent is granted, consent holders must comply with New Zealand's wider regulatory system, as well as any conditions imposed on the consent

Unregulated investment enters New Zealand

## New Zealand's wider regulatory system

LINZ monitors investments to detect non-compliance and takes enforcement action where appropriate. Regulators ensure that investments comply with wider regulatory requirements.

### Public value

## Annex 3 Overseas Investment Workflow 2022/2023

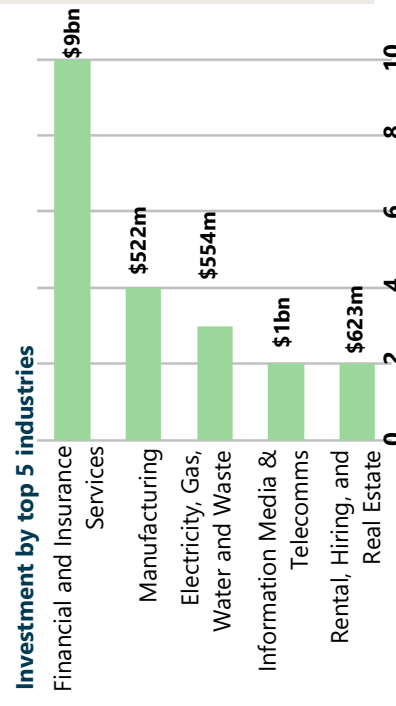
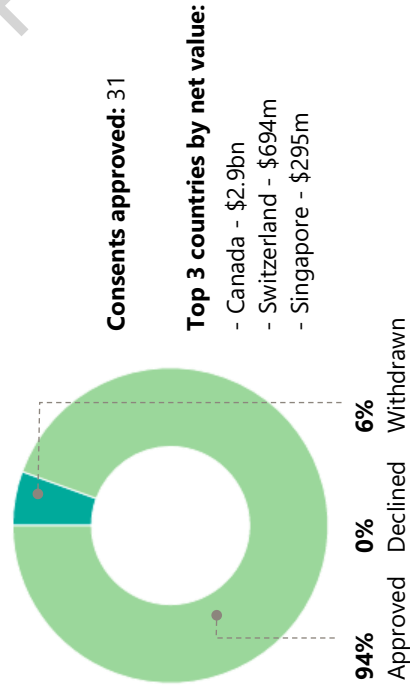
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# Overseas Investment Performance 2022/2023

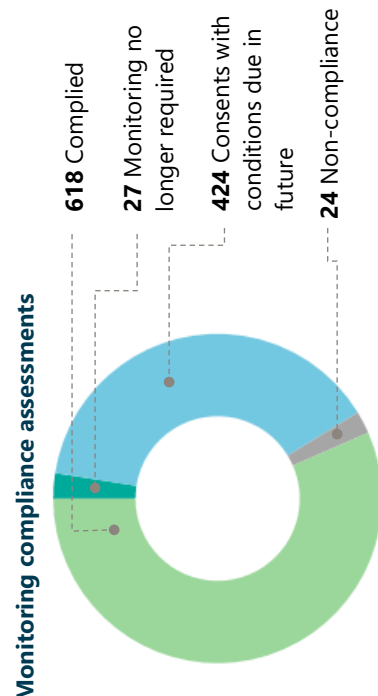
Dashboard for 1 Jul 2022 - 30 Jun 2023



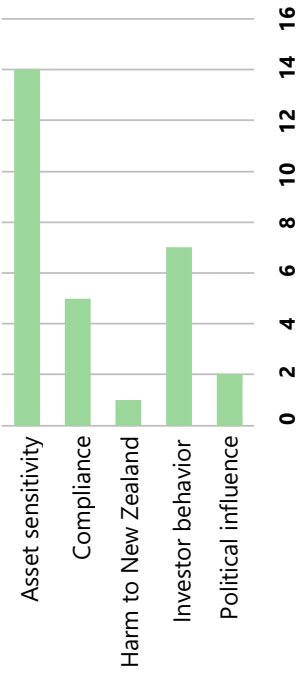
## Significant Business Assets only



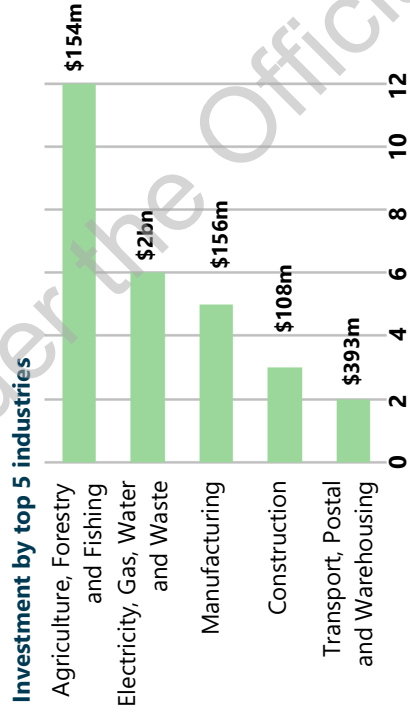
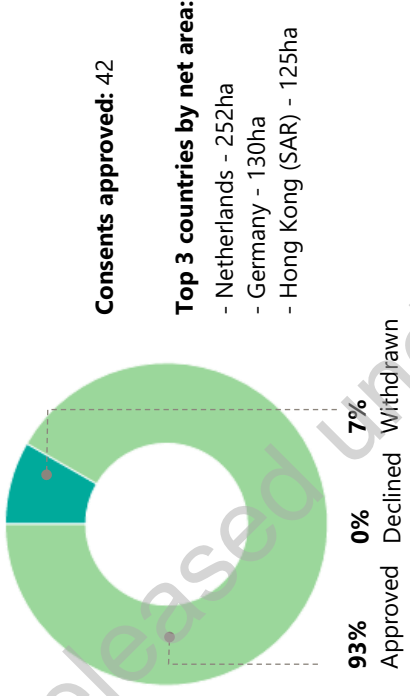
## Monitoring



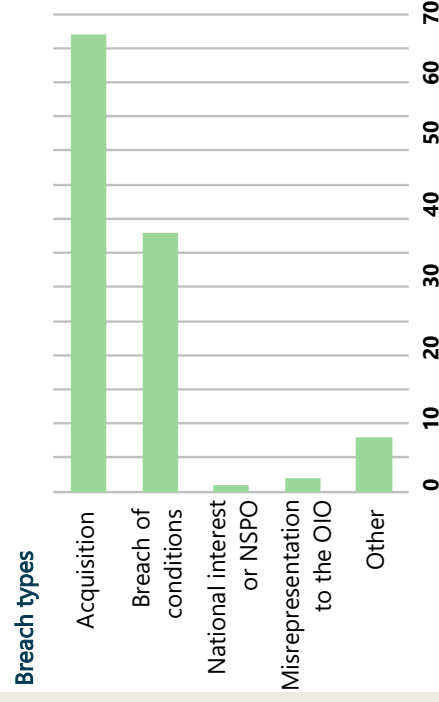
## Proactive monitoring risk types



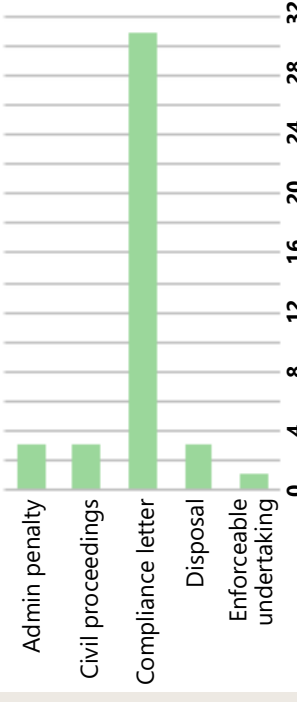
## Sensitive Land - Benefit to NZ & Intention to Reside



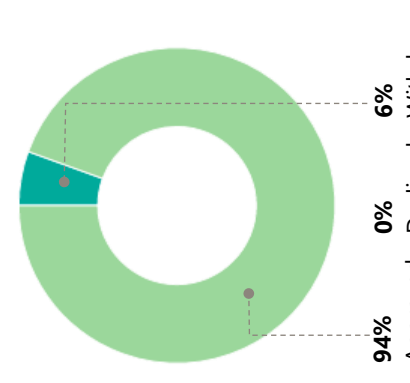
## Enforcement



## Actions taken



## Sensitive Land - Residential Land Development



**One-off Consents approved: 11**

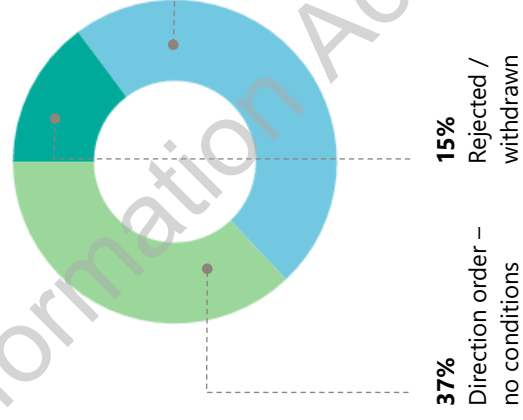
**Standing Consents approved: 1**

**Large Apartment Exemptions approved: 5**

**Top regions by number of applications:**

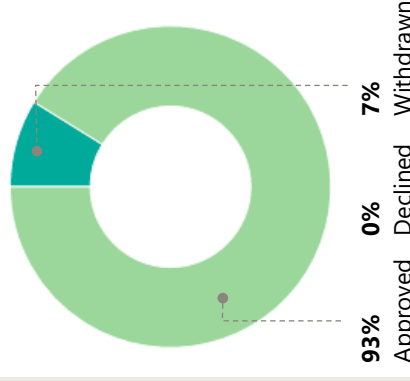
- Auckland (5)
- Canterbury (2)

## National Security and Public Order (NSPO) Regime

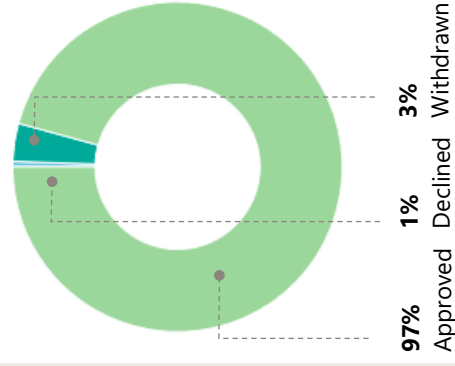


**Notifications received: 27**

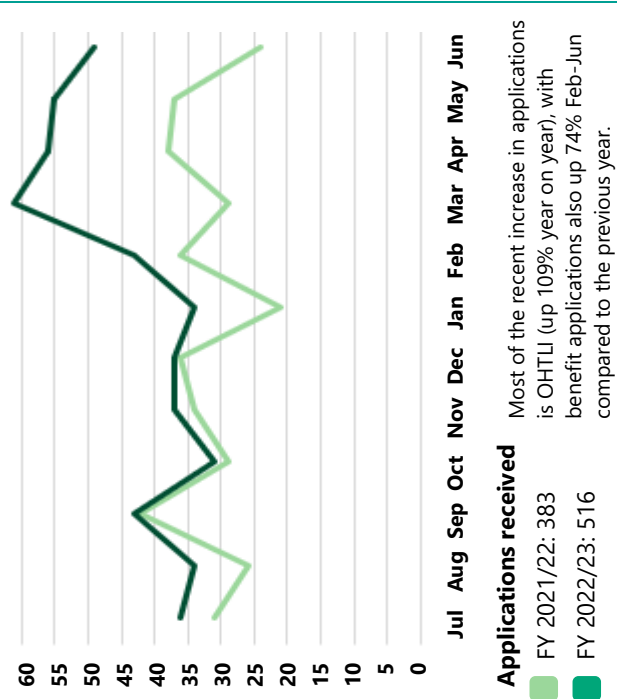
## Sensitive Land - Forestry



## Sensitive Land - One Home to Live In



## Applications received trend



**Annex 4 Ministerial Directive Letter dated 24  
November 2021**

Released under the Official Information Act 1982

# Hon Grant Robertson

MP for Wellington Central  
Deputy Prime Minister  
Minister of Finance  
Minister for Infrastructure  
Minister for Sport and Recreation  
Minister for Racing



24 November 2021

Gaye Searancke  
Chief Executive  
Land Information New Zealand  
Private Box 5501  
WELLINGTON 6145

Dear Ms Searancke

## Ministerial Directive Letter

1. This Ministerial Directive Letter is made pursuant to section 34 of the Overseas Investment Act 2005 (the Act). It directs you, as the Regulator, on:
  - a. the Government's general policy approach to overseas investment;
  - b. the terms of conditions of consent;
  - c. monitoring conditions of consent;
  - d. other matters relating to the Regulator's functions, powers and duties, including:
    - i. particulars on the implementation of the Benefits to New Zealand test and investor test,
    - ii. statutory time frames, the fees review and exemptions,
    - iii. the national interest test, national security and public order call-in power, and
    - iv. the level of monitoring by the Regulator of call in transactions that are not notified.
2. The Minister of Finance, Minister for Oceans and Fisheries, and Minister for Land Information intend from time to time to delegate powers and functions to the Regulator by separate instrument.
3. The terms used in this letter have the meaning given to them in the Act, unless otherwise specified.

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand  
+64 4 817 8703 | g.robertson@ministers.govt.nz | beehive.govt.nz



4. References to the Act and the Regulations in this letter refer to the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005 (respectively) on and from 24 November 2021 (being the date this letter comes into effect), including any amendments after that date.
5. References to sections or regulations refer to sections of the Act or regulations in the Regulations unless provided otherwise.

### ***Government policy towards overseas investment***

6. New Zealand needs productive overseas investment. Advantages include better access to markets, technology and capital, and, as a result, a more productive economy. International evidence suggests that it can help domestic firms to adopt up-to-date technologies and processes, transfer new expertise and skills into the country being invested in, access distribution networks and markets that would otherwise be unavailable, and participate in global value chains.
7. However, overseas control or ownership of sensitive assets can result in some risk (such as opportunities for espionage, sabotage, or data theft). This can run contrary to the view that there is inherent value in New Zealand ownership of our most sensitive assets.
8. The Overseas Investment Amendment Act 2018, Overseas Investment (Urgent Measures) Amendment Act 2020, and Overseas Investment Amendment Act 2021 balance these competing tensions by ensuring that New Zealand attracts productive investment, while also ensuring the government has the tools to manage risks associated with that investment.
9. The statutory regime is calibrated to reflect this balance by providing more oversight and discretion in areas we see as posing the most risk (for example, investments automatically subject to the national interest test), and a more proportionate approach to the vast majority of transactions that will support New Zealanders' living standards and wellbeing (for example, investments in non-strategically important businesses).
10. The Government expects regulatory efforts to be allocated to ensure we are concentrating our limited resources on those transactions most likely to pose risks. Accordingly, we expect resources to be focused on transactions involving farm land, posing national security, public order, or other national interest risks, and proportionately less on others. This expectation is also reflected in the relevant statutory time frames.

## Investor Test

11. The new investor test, which came into force on 22 March 2021, is simplified and more targeted than the previous test. It narrows the scope so that only serious matters can be considered, does not require repeat investors to satisfy the test for each investment they make, and allows investors to submit an application under the standalone test, in advance of their application.<sup>1</sup>

### *Changes in scope*

12. The changes which have been in force for almost six months now, that narrowed the matters that can be considered under the investor test, have resulted in meaningful time savings by ensuring that the test focuses on significant risks. We expect that this test will continue to become more efficient as it has time to embed.

### *Repeat and standalone test*

13. The standalone investor test means that an investor, or group of investors, can apply to be assessed under the investor test separate from a consent application. This provides greater flexibility to investors, particularly in terms of timing. Some investors may wish to be approved ahead of a consent application. For example, if the investment is likely to be time-sensitive once the substantive application is submitted or having already met the investor test gives them an advantage. Investors may also want to check that they meet the investor test before committing to a full application process.
14. Repeat investors are able to go through a streamlined 'repeat investor test' process when making new investments.<sup>2</sup> This will reduce compliance costs by ensuring that the test only needs to be carried out in full once, insofar as the information remains the same. As with the standalone test, it will allow more timely considerations of applications.
15. Investors are required to complete a statutory declaration when lodging an application that relies on repeat or standalone investor test. This declaration must verify whether there has been any change in the extent to which the investor test factors are established since the test was satisfied. In order to ensure these changes allow more timely consideration of applications, I expect this statutory declaration to be generally held at face value – that is, to avoid investigations to verify this information, unless there are valid reasons to do so.

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<sup>1</sup> Section 29A(1) outlines that a person may apply at any time for an assessment of whether the person meets the investor test. This test is referred to in this letter as the 'standalone investor test'.

<sup>2</sup> Sections 29A(2) to (5) outline the requirements that apply to a person if the investor test has to be met in respect of particular overseas investment, and a person has previously met the investor test. This test is referred to in this letter as the 'repeat investor test'.

## ***Benefit to New Zealand test***

### *General approach*

16. Consistent with the Government's objective of streamlining the consent process for low risk investments, the statutory regime has simplified the benefit to New Zealand test by narrowing the number of factors, clarifying that the test is positively framed, and better providing for consideration of Māori cultural values. It also now expressly requires the benefits offered to be proportionate. Reducing the number of factors is not intended to narrow the types of benefits that can be considered, but is intended to ensure a more holistic approach is taken to determining whether the test is satisfied – both by prospective investors in their applications and by the Regulator in its assessment.
17. Investors considered that the Act did not appropriately recognise the benefit of market liquidity. Investors need confidence in their ability to realise investments and a lack of confidence may have served as a barrier to investors – foreign and domestic – moving capital into what they considered to be more productive domestic opportunities, such as build-to-rent developments.
18. The Act now makes explicit that the “reduced risk of illiquid assets” can be considered under the benefit to New Zealand test. This means that an overseas person acquiring an asset would benefit New Zealand by ensuring there is a purchaser for assets that might otherwise be stranded. For example, it may apply where an overseas person is purchasing an existing build-to-rent development, and that purchase would better ensure the asset remains liquid.
19. This consideration is more likely to be relevant to large assets that cannot be sold in parts, or assets that require specialisation to own, control or operate. These assets are less likely to have prospective New Zealand purchasers so risks of illiquidity will be heightened.
20. I consider it important to minimise the number of stranded assets. This benefit will do that as well as increasing market liquidity and, among other things, support greater appetite for international capital investment in New Zealand.

### *Farm land*

21. Farm land has a special importance to New Zealand. It has significant economic and cultural value. It is central to our economy, and our farmers are among the world's most capable. This means it is a special privilege for overseas persons to own or control farm land. In 2017, the Government issued a Ministerial directive letter, which included a rural land directive raising the bar for overseas investments in rural land. The new farm land test in the Act replaces that previous directive.

22. The definition of farm land in the Act is necessarily broad. As a result, there will be instances where land that is not productive as farm land is captured within this definition. Restricting investments in that land is not our intention. The Act allows decision-makers to apply the ordinary benefits test if the land in question is not productive for farming, and is likely to be promptly used for commercial, industrial, or large residential developments.<sup>3</sup> For example, it may not be appropriate to apply the test to land used for temporary grazing that is not otherwise suitable, or used, for agricultural purposes.

*Ensuring that farm land is advertised to New Zealanders*

23. The Act requires farm land to be advertised for sale on the open market before the transaction is entered into, and before consent can be given to an overseas person to obtain an interest in it.<sup>4</sup> Recognising that there might be good reasons not to advertise in some cases, the Act also allows the decision-maker to exempt investments from the requirement where it is necessary, appropriate or desirable to do so.<sup>5</sup>
24. It is not possible to describe every instance where this exemption making power may be exercised, so the language of this power is intentionally broad. However, to aid swift advice and decision-making, I have included some examples of circumstances where I consider an exemption would be appropriate in the Annex (including what the appropriate exemption would be).

*Intention to reside in New Zealand indefinitely*

25. Under section 16(1)(c)(i) of the Act, overseas persons intending to reside in New Zealand indefinitely are not required to show that their investment in sensitive land is likely to benefit New Zealand. This supports migrants in the process of moving to New Zealand to make New Zealand their home and make a positive contribution to society.
26. An intention to reside in New Zealand indefinitely must involve a definite plan and accompanying actions. In determining whether a person is intending to reside indefinitely, the Regulator must consider any active steps that have been taken by the investor to actually reside in New Zealand.
27. In order to meet the intention to reside in New Zealand criterion in section 16(1)(c)(i), the Government considers the overseas person will generally:
- a. hold a residence class visa or an entrepreneur work visa, and

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<sup>3</sup> Section 16A(1D)(c).

<sup>4</sup> Section 16(1)(f).

<sup>5</sup> Section 20.

- b. show actions and plans, with supporting evidence, consistent with an intent to reside in New Zealand within 12 months.

28. The Regulator may impose as a condition of consent a time limit within which the overseas person must move to New Zealand and become ordinarily resident. The Government would generally expect the overseas person to move to New Zealand within 12 months from the date of consent and become ordinarily resident within 2 years<sup>6</sup> from the date of consent.

### ***Time frames for decisions***

29. New statutory time frames have been introduced for application decisions under the Act, which are specified in the Regulations. This brings New Zealand into line with other jurisdictions and provides greater certainty for investors. The time frames are ambitious and will require assessments to be completed more quickly than they previously would. The time frames will therefore provide a meaningful improvement to investors and enhance New Zealand's attractiveness to high quality foreign investment. If it becomes apparent after a reasonable amount of time that time frames are not working as intended, it may be appropriate to review them.
30. The time frames reflect the relative levels of analysis that I expect for each test under the new regime, and the overarching intent around appropriately prioritising effort. The Government presumes that, without extraordinary evidence to the contrary, all transactions other than those involving farm land, strategically important businesses, investment by non-New Zealand government investors, or those that are otherwise subject to the national interest test are lower risk and should have relatively lower resources dedicated to processing them.
31. I acknowledge that it may be difficult for the Regulator to meet these time frames in all instances during the transitional 12 month bedding-in period, given the Regulator is operationalising significant changes to the Act at the same time as time frames commence. I expect that performance will improve and that, beyond that time, statutory time frames will be consistently met.
32. For applications requiring Ministerial decisions, I expect you to provide timely advice to the relevant Minister so we can make decisions within the allotted 20 working day time frame.

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<sup>6</sup> A longer period may be considered for migrants holding an entrepreneur work visa.

### *Applications where the investor has met the standalone investor test*

33. We have not included a separate statutory time frame for applications where the investor test has already been satisfied, either through the repeat or standalone test. This reflects advice that a uniform discount on time frames across all application types, which is the approach taken for fees, is not possible, given the investor test would normally be completed in parallel to other work.
34. I still expect that the majority of the applications for appropriate pathways where the investor test has been satisfied and the investor has declared that no changes or very minor changes have occurred, will be assessed within shorter time frames. For example, investments involving significant business assets would only require the statutory declaration in regard to the investor test criteria so they should be able to be assessed more expeditiously.
35. In order to ensure this is occurring, I expect that the Regulator will monitor time frames on applications where the investor test has been satisfied and report on it as part of the annual reporting on compliance with time frames.

### *Unilateral extensions to the time frames*

36. There will be instances when the time frames are insufficient and will be extended in certain circumstances.<sup>7</sup> While the regulations provide for a 30-working day extension in these circumstances, I expect that applications be assessed within shorter time frames should the full 30 working days not be required. I also expect the Regulator to monitor how often extensions are occurring to better understand applicants' engagement with the regime.
37. The Regulator often needs to collect additional information before consent can be granted and it is important that the Regulator is not unfairly penalised for any undue delays on behalf of the applicant. The Regulations provide that the overall time frame is automatically paused, post the initial assessment period, where the Regulator requests or requires further information from an applicant and a reasonable deadline set by the Regulator is not met. I expect the Regulator to monitor how often and for how long time frames are paused, both to ensure that the Regulator is not setting unreasonable time frames for applicants to respond within and to better understand applicants' engagement with the regime.
38. I expect the Regulator to report, through their Ministers, to Cabinet on performance against the time frames every 12 months in addition to requirements to report on timeframes in its annual report.

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<sup>7</sup> Clause 7 of Schedule 5 of the Regulations.

## **Fresh or seawater areas**

39. The Act and Regulations have changed the process for offering fresh and seawater interests to the Crown. These changes include a requirement for the Crown to notify the owner of its decision on acquisition within twelve months of the water areas acquisition notice being registered or provided. In practice, I expect these notifications to occur within six months, except in cases which are unusually complex. To allow the Government to monitor when extensions occur, I expect that you notify the Minister for Land Information whenever this six-month time frame is being exceeded. I also expect you to give reasonable notice to owners of any extensions.

## **Setting and reviewing fees**

40. The Act provides that regulations can prescribe fees and charges for the purpose of meeting (or assisting in meeting) costs of Ministers and the Regulator in exercising functions and powers, performing duties and generally providing services under the Act.<sup>8</sup> It also provides that fees can be set at a level which recovers the true cost of assessing an application by:<sup>9</sup>
- a. clarifying that the government can set fees to ensure that under- or overcollections can be distributed among fee payers on a rolling four year basis,
  - b. requiring the Minister to commence a fees review at least once every four years, and
  - c. confirming that any existing deficit for the Regulator can be recouped through fees that are set after commencement of these changes, to the extent that the deficit arose in the preceding four financial years.
41. Where you are assisting with future fees reviews, consistent with the Government's Cost Recovery Policy and the Auditor-General's advice, I do not expect cost recovery from investors that cannot be reasonably ascribed to processing that investor's application, including necessary overhead expenses (other than as a consequence of reasonable under-collections across a four year basis).

## **Exemptions**

42. The Act defines 'overseas person' in a way that results in some entities and managed investment schemes that are majority owned or funded by New Zealanders and have a strong connection with New Zealand, being required to obtain consent.

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<sup>8</sup> Section 61.

<sup>9</sup> Section 61(1)(e).

43. The Act permits exemptions for persons, transactions, rights, interests or assets that the Minister considers to be majority owned and substantively controlled by New Zealanders.<sup>10</sup> The decision-maker may grant individual exemptions to applicants that satisfy this threshold.<sup>11</sup> This aligns with the Act's purpose, as it is clear that the degree of New Zealand ownership and control is what determines whether an entity is an overseas person, not other matters such as New Zealand employees or having headquarters in New Zealand.
44. I consider that such exemptions should generally be granted to non-listed bodies corporate, managed investment schemes (MIS) and limited partnerships, where they meet the criteria specified in the Annex, unless good reason exists not to.

### **Variations**

45. The Annex outlines the criteria for revocation or variation of conditions of consent for persons who are no longer considered overseas persons under the Act.

### **The national interest test**

46. The national interest test is a 'backstop' tool and consistent with this, it is the Government's view that the test should only be applied on a case-by-case basis, rarely and only where necessary to protect New Zealand's national interests. The starting point is that investment is in New Zealand's national interest. As such, the regulator should only advise that a transaction should be escalated to a national interest assessment in the scenarios outlined in the Annex.

#### *Regulator's advice about whether a transaction is in the national interest*

47. When providing advice on a national interest assessment, the Regulator must:
- a. be informed by the Guidance Note: Foreign Investment Policy and National Interest Guidance (June 2021) published on The Treasury website, and
  - b. reflect consultation and input from relevant partner agencies.<sup>12</sup>

### **The national security and public order call-in power notification**

#### *Initial assessments of notifications should be carried out quickly to identify significant risks*

48. In recognition of the potential impact of the call-in power regime on businesses and investors, low-risk transaction should be identified quickly and allowed to

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<sup>10</sup> Section 61B(c)(viii).

<sup>11</sup> Section 61D.

<sup>12</sup> Such as those agencies listed in section 126 of the Act.



proceed promptly. To facilitate this, I expect you to assess a notification in two steps within the 55-working day statutory time frame:

- a. an initial risk assessment within 15 working days, where you consider if a transaction could pose a significant risk to New Zealand's national security or public order. Those that could not pose a significant risk will be issued with a direction order allowing them to proceed, and
  - b. a risk and benefit assessment is undertaken for those transactions that could pose a significant risk and this assessment is referred to the Minister. The assessment should be provided promptly so the Minister can make a final decision on what action to take (if any) within the remainder of the 55-day statutory time frame.
49. When assessing and providing advice on the risks and benefits of a transaction, the Regulator must:
- a. be informed by the Guidance Note: Foreign Investment Policy and National Interest Guidance (June 2021) published on The Treasury website, and
  - b. reflect consultation and input from relevant partner agencies.
50. The Regulations allow extensions to be granted to the 55-working day time frame. Extensions should only be granted if a transaction has significant complexity, the applicant operating in good faith is unable to meet the Regulator's requests in a timely manner, or there are other exceptional circumstances (for example, the discovery of significant new information late in the assessment process).

#### *Scanning of non-notified transactions that could pose significant risks*

51. The Government can investigate any non-notified call-in transactions and impose conditions on, or order disposal of them, where necessary to manage significant national security or public order risks.
52. I recognise the call-in power is a new regulatory function for you to administer and monitor. I expect that over time you will adjust your approach to scanning for non-notified transactions that may pose significant national security or public order risks. This new regulatory function has now been in place for six months, and you should report back to me within six additional months from the date of this letter on your approach for identifying non-notified transactions that could pose significant national security or public order risks.

#### **Operation of the Overseas Investment Office**

53. The Government seeks to ensure that the process of granting or refusing consent is robust and generates high quality outcomes, while also being efficient to ensure the regime does not unduly restrict productive investment.

### *Consent conditions, monitoring and enforcement*

54. Monitoring and enforcement of compliance with the consent requirements of the Act, and of compliance with conditions imposed on consents, maintains public confidence in the integrity of the regime.
55. The Government expects the Regulator to monitor the conditions imposed in a reasonable and proportionate approach (recognising it may be appropriate to impose a different time period to monitor some conditions).
56. This will assist in maintaining confidence on the overseas investment regime. It also ensures fair treatment for those who comply with the rules by ensuring those who break the rules are held to account and that others are deterred from doing so.

### **Other general matters relating to the Regulator's functions, powers or duties**

57. Along with the other directions in this letter, I also expect you, as the Regulator, to:
  - a. provide recommendations to the relevant Minister or Ministers,
  - b. perform your functions within the statutory time frames set out,
  - c. via your website resource, provide a summary of the overseas investment regime, information on how to prepare and submit an application for consent, and specific details on your processes and time frames,
  - d. via your website resource, continue to publish decisions made under the Act,
  - e. keep applicants informed of the progress being made with their applications, and
  - f. compile and keep records useful for the making available of statistics and public information on, and compliance with, any additional Government performance expectations.

### **Revocation of previous letters**

58. Subject to paragraphs 59 and 60 below, I revoke all previous directives under section 34 in force at the date of this letter (the Revoked Directives), with effect from 24 November 2021.

### **Date letter takes effect**

59. This letter will take effect on 24 November 2021, and applies in relation to any transaction, application or other matter, where provisions in the Act or the Regulations as they read on or after that date apply.

60. In other cases, where an earlier version of the provisions in the Act or Regulations apply under the transitional arrangements in Schedule 1AA of the Act or Schedule 1AA of the Regulations, then the Revoked Directives continue to apply to that transaction, application or other matter.

Yours sincerely



Hon Grant Robertson  
**Minister of Finance**

Released under the Official Information Act 1982

## Annex

### Farm land advertising exemption (refer to paragraph 23 of the letter)

1. The following is non-exhaustive list of examples of the circumstances where an applicant may be eligible for an exemption from the farm land advertising requirement, under section 20 of the Act:
  - a. when there is substantial compliance (for example, where the advertising does not meet all of the requirements but nonetheless achieves the purpose of advertising),
  - b. for future advertising (for example, where an investor seeks consent to acquire selected properties in the future should they be put up for sale – advertising occurs after consent), and
  - c. when there is only one natural buyer (for example, a boundary adjustment or landlocked land).

### Exemptions (refer to paragraph 42 of the letter)

#### *Non-listed bodies corporate*

2. In order to be eligible for an exemption from consent requirements, the Government considers a domestically incorporated non-listed body corporate will generally:
  - a. not be majority owned by overseas persons. That is, be less than 50 per cent owned by overseas persons,
  - b. not be substantively controlled by overseas persons. That is, 25 per cent or less of the entity's total securities are cumulatively controlled by overseas persons, each of whom hold 10 per cent or more of the entity's total securities, and
  - c. not be open to access or control by a foreign government. That is, no foreign government (or its associates) holds 10 per cent or more of the entity's total securities.

#### *Managed Investment Schemes (MIS)*

3. In order to be eligible for an exemption from consent requirements, the Government considers a MIS will generally:
  - a. not be majority owned by overseas persons. That is, less than 50 per cent of the value of the managed investment products in the MIS are invested on behalf of overseas persons,

- b. not be substantively controlled by overseas persons. That is, 25 per cent or less of the managed investment products in the MIS that entitle holders to vote are invested on behalf of overseas persons, each of whom have 10 per cent or less of those products<sup>13</sup>, and
- c. not be open to access or control by a foreign government. That is, no foreign government (or its associates) holds 10 per cent or more of value of the managed investment products in the MIS.

#### *Limited partnerships*

- 4. In order to be eligible for an exemption from consent requirements, the Government considers a limited partnership will generally:
  - a. not be majority owned by overseas persons. That is, less than 50 per cent of the limited partnership interest is held by overseas persons,
  - b. not be substantively controlled by overseas persons. That is, 25 per cent or less of the general partner is cumulatively controlled by overseas persons that each hold a 10 per cent or less of the interests in the general partner, and
  - c. not be open to access or control by a foreign government. That is, no foreign government (or its associates) holds 10 per cent or more of the partnership interest.

#### *Other matters for consideration*

- 5. In addition to the specified criteria, in determining whether to grant an exemption to these kinds of entities, the Government would expect the Regulator to consider:
  - a. the entities' suitability to own or control New Zealand assets (in accordance with how character is assessed under investor test in the Act), and
  - b. the degree of access or control foreign governments (or their associates) hold in the entity.
- 6. The Government would expect the exemption to depend on compliance with conditions being maintained, including the condition that the investor remain not unsuitable to own or control the assets.

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<sup>13</sup> A MIS that has an overseas person as manager or trustee should not be considered to have substantive control for the purpose of this directive.

**Revocation or variation of conditions of consent for persons who are no longer considered overseas persons under the Act (refer to paragraph 45 of the letter)**

7. The Act provides that a condition of consent can be revoked by the relevant Minister or Ministers or be varied or added to by the relevant Minister or Ministers with the agreement of the consent holder.<sup>14</sup>
8. Clause 39(2) of Schedule 1AA of the Act, as introduced by the Overseas Investment Amendment Act 2021, provides that relevant Ministers may revoke a condition of a consent that the Act required to be imposed. This relates to a person who ceased to be an overseas person on commencement of new section 7 of the Act (section 5 of the 2021 Amendment Act) and who applies to the Regulator under section 27 of the Act for a variation of a consent granted to them while they were considered an overseas person under the Act.
9. I generally expect you, as the Regulator, when processing such applications, to revoke the conditions of those consents unless good reason exists not to.
10. I expect you to exercise your discretion having regard for, amongst other things:
  - a. the purpose of the Act, and
  - b. the Government's view that some investors are no longer considered overseas persons under the Act and therefore their ownership of sensitive New Zealand assets is unlikely to pose risks to New Zealand.

**National interest test (refer to paragraph 46 of the letter)**

11. The Regulator should only recommend that a transaction is a transaction of national interest under section 20B if the proposed investment:
  - a. could pose risks to New Zealand's national security or public order,
  - b. would grant an investor significant market power within an industry or result in vertical integration of a supply chain,
  - c. has foreign government or associated involvement that was below the more than 25 per cent ownership or control interest threshold for automatic application of the national interest test, but granted that government (and/or its associates) disproportionate levels of access to or control of sensitive New Zealand assets,<sup>15</sup>
  - d. would have outcomes that were significantly inconsistent with or would hinder the delivery of other Government objectives,
  - e. raises significant Treaty of Waitangi issues, or
  - f. relates to a site of national significance (e.g. significant historic heritage)

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<sup>14</sup> Section 27.

<sup>15</sup> Disproportionate access or control is defined in section 6(10) of the Act.

**Annex 5 Designation and Delegation Letter  
dated 24 November 2021**

Released under the Official Information Act 1982

## Hon Grant Robertson

MP for Wellington Central  
Deputy Prime Minister  
Minister of Finance  
Minister for Infrastructure  
Minister for Sport and Recreation  
Minister for Racing



24 November 2021

Gaye Searancke  
Chief Executive  
Land Information New Zealand  
Private Box 5501  
WELLINGTON 6145

Dear Ms Searancke,

### **Ministerial Delegation Letter**

#### **Designation and Delegation Letter**

1. This designation and delegation letter is made under sections 30 and 32 of the Overseas Investment Act 2005 and Schedule 6 of the Public Service Act 2020.
2. Terms used in this letter have the same meaning as in the Overseas Investment Act 2005 (the Act) and the Overseas Investment Regulations 2005 (the Regulations) unless otherwise stated.

#### **Designation**

3. The Minister of Finance designates Toitū Te Whenua Land Information New Zealand (LINZ) as the regulating department and the Chief Executive of LINZ as the Regulator (the Regulator) in accordance with section 30 of the Act.

#### **Delegations**

*Ministers delegate certain functions and powers to the Regulator*

4. The Minister of Finance, the Minister for Oceans and Fisheries, and the Minister for Land Information (together, Ministers or we) delegate our powers and functions under the Act and Regulations as specified in the tables attached to this letter, and the power to delegate those delegated powers and functions.



5. These delegations are intended to balance the need for Ministers to make the most important decisions (for example, decisions involving higher sensitivity assets such as larger areas of farm land) with the need to ensure the efficient operation of the Act.

#### *Ministers may call in decisions*

6. The delegations do not prevent us from exercising delegated powers and functions. Ministers may, at our discretion, choose to make a delegated decision (that is, 'call in' a decision).
7. Ministers are most likely to call in a decision when they consider it to be important and the relevant test provides for the exercise of Ministerial judgement. For example, a call in for a land decision could occur when the relevant test is the benefit to New Zealand test and: the relevant land (or the infrastructure on the relevant land) is particularly sensitive, there is or will be a high level of public interest in the application, or there is a high level of risk associated with the investor or investment.
8. We expect the Regulator to regularly report to Ministers on significant applications that may be decided under delegation, and to assist us in identifying important decisions we may wish to call in.

#### **Revocation**

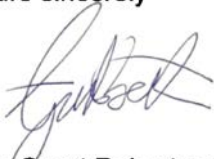
9. Subject to paragraph 10 and 11 below, the Minister of Finance, Minister for Land Information, and the Minister for Oceans and Fisheries revoke all previous delegations under the Act and Regulations (the Revoked Delegations), with effect from 24 November 2021.

#### **Date letter takes effect**

10. This letter will take effect on 24 November 2021, and applies in relation to any transaction, application or other matter, where provisions in the Act or the Regulations as they read on or after that date apply.

11. In other cases, where an earlier version of the provisions in the Act or Regulations apply under the transitional arrangements in Schedule 1AA of the Act or Schedule 1AA of the Regulations, then the Revoked Delegations continue to apply to that transaction, application or other matter.

Yours sincerely



Hon Grant Robertson  
**Minister of Finance**



Hon David Parker  
**Minister for Oceans and Fisheries**



Hon Stuart Nash  
**Acting Minister for Land Information**

Released under the Official Information Act 1982

Table A: Powers and functions to make certain decisions		
<ul style="list-style-type: none"> <li>The Ministers delegate to the Regulator the powers and functions to make the following decisions, including all ancillary powers and functions necessary for, or incidental to, making those decisions.<sup>1</sup></li> <li>An application for consent may require a business decision, fishing quota decision, land decision or a combination thereof. If any of those three types of decision on an application for consent must be made by the relevant Minister or Ministers then all consent decisions for that application must be made by the relevant Minister or Ministers.<sup>2</sup></li> </ul>		
Decision type	Relevant Minister(s)	Delegation
<b>A</b> Business decisions	Minister of Finance	All business decisions delegated to the Regulator.
<b>B</b> Fishing quota decisions	Minister of Finance and Minister for Oceans and Fisheries	None.
<b>C</b> Land decisions	Minister of Finance and Minister for Land Information	Land decisions (including on applications for standing consents) delegated to the Regulator when any of the following is true:  1. The relevant land is residential (but not otherwise sensitive) land only. <sup>3</sup>

<sup>1</sup> For example, the ancillary powers: under section 15 of the Act to determine who are relevant overseas persons, and individuals with control, for overseas investments; under section 16A(7) and (8) of the Act to not apply, or to modify, certain requirements; under section 16A(1)(1D) of the Act not to apply the modified benefit test for farm land; or under section 25(1) of the Act including the power to grant consent retrospectively.

<sup>2</sup> For example, if an application for consent required a business decision (which are all delegated) and a land decision that was not delegated then both consent decisions would be made by the relevant Ministers. For the avoidance of doubt, the Regulator may still make a delegated consent decision where the transaction is a transaction of national interest, and the Minister has considered the exercise of the power under section 20C.

<sup>3</sup> One effect of this delegation is that all applications (including standing consents) under the increased housing test, non-residential use test, and incidental residential use test are delegated to the Regulator.

			<p>2. The application for consent is under the commitment to reside in New Zealand test only, or the 'intention to reside in New Zealand test' only.<sup>4</sup></p> <p>3. The value of the consideration to be provided for the overseas investment in sensitive land is less than \$2 million.</p> <p>4. The acquisition is an overseas investment in sensitive land under section 12(1)(b)(ii) of the Act and the overseas person, together with any associates, is increasing their existing more than 25% ownership or control interest by less than 25%.<sup>5</sup></p> <p>5. The interest in the relevant land is not and does not include:</p> <ul style="list-style-type: none"> <li>a. a freehold estate; or</li> <li>b. a leasehold interest for a term of 35 years or more (including rights of renewal, whether of the grantor or grantee); or</li> <li>c. a reviewable lease under the Crown Pastoral Land Act 1998.</li> </ul> <p>6. The application for consent is under the benefit to New Zealand test, section 16A(4) of the Act does not apply, and the relevant land is not, and does not include, non-urban land exceeding 5 hectares.</p>
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<sup>4</sup> A reference to the 'intention to reside in New Zealand test' in this letter is a reference to the criterion in section 16(1)(c)(i) of the Act.

<sup>5</sup> For example, increasing from a 60% ownership or control interest to a 80% ownership or control interest.

			<p>7. The application for consent is under the benefit to New Zealand test and the relevant land is or includes non-urban land exceeding 5 hectares and:</p> <ol style="list-style-type: none"> <li>the value of the consideration to be provided for the overseas investment in sensitive land is less than \$20 million; and</li> <li>the relevant land is less than 30 hectares; and</li> <li>the relevant land is not, and does not include, any marine and coastal area; and</li> <li>the relevant land is not, and does not include, any bed of a lake that exceeds the relevant area threshold in Table 1 of Schedule 1 of the Act.</li> </ol> <p>8. The application for consent is under the benefit to New Zealand test and:</p> <ol style="list-style-type: none"> <li>the application is being considered in accordance with section 16A(4) of the Act (the special test relating to forestry activities); and</li> <li>the application is not for a standing consent.</li> </ol>
<b>D</b>	A decision on whether or not to grant an individual exemption under section 61D of the Act ('individual exemption').	Minister of Finance	All 'individual exemption' decisions delegated to the Regulator.
<b>E</b>	A decision on whether or not to grant an 'exemption certificate'. <sup>6</sup>	Minister of Finance and Minister for Land Information	All 'exemption certificate' decisions delegated to the Regulator.

<sup>6</sup> A reference to an 'exemption certificate' in this letter is a reference to an exemption certificate under clause 4 of Schedule 3 of the Act (dwellings in large apartment developments that are purchased off plans).

<b>F</b>	A decision on whether or not to grant a waiver relating to a trigger event under clause 8 of Schedule 2 of the Act (a 'waiver')	Minister of Finance and Minister for Land Information	All 'waiver' decisions delegated to the Regulator.
<b>G</b>	<p>A decision to:<sup>7</sup></p> <ol style="list-style-type: none"> <li>1. vary a consent or conditions of consent under section 27 of the Act; or</li> <li>2. revoke a condition of consent that the Act required to be imposed, under clause 39(2) of Schedule 1AA of the Act; or</li> <li>3. vary a 'transitional exemption certificate' under clause 6(8) of Schedule 1AA of the Act<sup>8</sup>; or</li> <li>4. vary or revoke a standing consent or the conditions of a standing consent under clauses 3 or 4 of Schedule 4 of the Act; or</li> <li>5. revoke a consent under section 26 of the Act; or</li> <li>6. amend or revoke an 'individual exemption'; or</li> </ol>	Minister of Finance, Minister for Land Information and Minister for Oceans and Fisheries <sup>9</sup>	All Variation and Revocation Decisions delegated to the Regulator.

<sup>7</sup> For the avoidance of doubt, a decision to vary conditions of consent includes a decision to vary by way of adding to or revoking conditions.

<sup>8</sup> A reference to a 'transitional exemption certificate' in this letter is a reference to an exemption certificate under clause 6 of Schedule 1AA of the Act (exemption relating to dwellings in large apartment developments where sales of dwellings have begun before assent date).

<sup>9</sup> The relevant Minister(s) being: the relevant Minister(s) responsible for the relevant category of overseas investment for items 1 and 2; the Minister of Finance and Minister for Land Information for items 3, 4 and 7; the Minister of Finance for items 5 and 6.

	7. amend or revoke a 'waiver' under clause 8(4) of Schedule 2 of the Act <b>Together Variation and Revocation Decisions.</b>		
<b>H</b>	A decision under section 29A(1) of the Act as to whether or not a person meets the investor test ('standalone investor test')	Minister of Finance	All 'standalone investor test' decisions delegated to the Regulator.
<b>I</b>	A decision on whether or not to grant an exemption under section 20 of the Act ('farm land offer exemption').	Minister of Finance and Minister for Land Information	All 'farm land offer exemption' decisions delegated to the Regulator, except for decisions under section 20(1)(b) of the Act (class exemptions).
<b>J</b>	Decisions in relation to the acquisition of a fresh or seawater interest under Schedule 5 of the Act or regulations 12-25 ('fresh or seawater interest decisions').	Minister for Land Information and Minister of Finance	All 'fresh or seawater interest decisions' delegated to the Regulator, except for the following decisions: <ol style="list-style-type: none"> <li>1. a decision not to acquire a fresh or seawater interest under clauses 4(1) or 5(1) of Schedule 5 of the Act;</li> <li>2. a decision to agree a different amount of compensation under clause 9(3) or 10(3) including at mediation under clause 25 of Schedule 5 of the Act;</li> <li>3. a decision to agree a different procedure for determining an amount of compensation under clause 9(3) of the Schedule 5 of the Act, where the amount is likely to significantly exceed the average rateable value per hectare of the land under regulation 23(5)(b).</li> </ol>

<b>Table B: Further powers and functions</b>		
<ul style="list-style-type: none"> <li>Ministers delegate the following powers and functions to the Regulator to the extent that they are not already delegated in Table A above.<sup>10</sup></li> <li>For the avoidance of doubt, the Regulator may exercise the delegations in this table in connection with a decision made by Ministers.</li> <li>The delegation of a power or function includes any ancillary powers and functions necessary for, or incidental to, the exercise of that power or function.</li> </ul>		
<b>Provision</b>	<b>Description of power or function<sup>11</sup></b>	<b>Relevant Minister(s)</b>
<b>A</b> Section 14(1)(b) of the Act and section 57E(1)(b) of the Fisheries Act 1996.	To consult with any other person(s).	Minister of Finance, Minister for Land Information and Minister for Oceans and Fisheries <sup>12</sup>
<b>B</b> Section 20A	To determine whether an application for consent involves a transaction of national interest and to notify the applicant.	Minister of Finance
<b>C</b> Section 20B(1)	To notify the applicant that a transaction is a transaction of national interest only, following a decision made by the Minister (part delegation).	Minister of Finance
<b>D</b> Section 20D	To identify and notify persons who are critical direct suppliers and to publish list.	Minister of Finance
<b>E</b> Sections 20E(3)(b) and 20E(5)(b)	To specify the information that must be contained in notices given by unpublished critical direct suppliers.	Minister of Finance
<b>F</b> Section 25A(3)	To enter into a contract or deed with an applicant for the purpose of enforcing a condition.	Minister of Finance, Minister for Land Information and Minister for Oceans and Fisheries <sup>13</sup>



<b>G</b>	Section 84(3)	To review any other call-in transaction (in addition to transactions which have been notified).	Minister of Finance
<b>H</b>	Section 87(1)	To authorise changes to the manner in which the notification under sections 85 and 86 must be given, in the case of minor and technical changes only (part delegation).	Minister of Finance
<b>I</b>	Section 88(1)	To give a direction order to a relevant acquirer, following a review of a call-in transaction, where the direction order is not subject to other conditions under section 88(3) only (part delegation).	Minister of Finance
<b>J</b>	Section 129	To publish notice of a decision, or defer or dispense with publication.	Minister of Finance
<b>K</b>	Regulation 64(1)(c)	To specify, by notice in the Gazette, the information that must be contained in an exemption application.	Minister of Finance
<b>L</b>	Regulation 64C(4) and (5)	To extend the period that an interim direction order is in force and to give notice of the extension to a relevant acquirer.	Minister of Finance
<b>M</b>	Regulation 68	To give notice of the exercise of powers.	Minister of Finance, Minister for Land Information and Minister for Oceans and Fisheries <sup>14</sup>
<b>N</b>	Regulation 69A(3) and (5)	To extend the timeframe for taking a risk management action and to give notice of the extension is delegated to the Regulator.	Minister of Finance

<sup>10</sup> For example, the power to consult under section 14(1)(b) of the Act is delegated as an ancillary power in Table A to the extent that it is exercised in connection with a delegated decision. The delegation of the same power in Table B ensures (for the avoidance of doubt) that the Regulator can exercise it in connection with decisions that are not delegated.

<sup>11</sup> The primary purpose of the 'description of power or function' column in this table is to assist the reader, unless stated otherwise it does not limit the scope of the delegation.

<sup>12</sup> The relevant Minister(s) are the Minister(s) responsible for the relevant category of overseas investment.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.