

Briefing for the Minister of Oceans and Fisheries

Responsibilities under the Overseas Investment Act

Released under the Official Information Act 1982



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1 Introduction to the Land Information portfolio

Toitū Te Whenua Land Information New Zealand (LINZ) is the government's lead agency for property and location information, managing Crown land and regulating the overseas investment regime. LINZ operates across land, sea and waterways.

The Land Information portfolio includes responsibilities in managing land titles, geodetic and cadastral survey regimes, topographic information, hydrographic information, managing Crown property, ensuring the Public Works Act 1981 is appropriately implemented and decision-making around foreign ownership of sensitive land and business assets under the Overseas Investment Act 2005.

LINZ is the steward for four regulatory regimes:

- overseas investment
- property rights
- property and geographic information
- Crown land.

These regimes deliver a range of functions, such as providing advice to ministers on investment in sensitive assets by overseas buyers; maintaining an efficient and effective regime for registering dealings in land; providing high quality information about properties, electoral boundaries, geographic place names and zoning; acquiring, selling and managing Crown land and property and carrying out responsibilities for Treaty settlements.

In the 2022/2023 year, LINZ:

- monitored 1093 overseas investment consent conditions
- managed 3.2 million logins to Landonline, the platform for New Zealand's property system
- administered 1.2 million hectares of Crown pastoral land in the iconic South Island high country, stretching from Marlborough Region to Southland Region
- salvaged 2,800 tonnes of material during the demolition of 26 buildings at the former Masterton hospital
- issued 37 Electronic Navigational Charts with a new edition or with new cells.

Facts at a glance

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

 **484**

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

 **1093**

consent conditions were monitored.

 **96%**

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

 **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.

 **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.

Property rights

Administering the Land Transfer Act 2017 and Cadastral Survey Act 2002, under which land title is guaranteed and property boundaries are defined, and maintaining the ownership register and survey records.

Māori Crown relations

Improving Toitū Te Whenua's role in the Māori Crown relationship by honouring Treaty settlement commitments, building enduring relationships and lifting capability to engage and partner with Māori.

Land

Providing confidence in our property rights system through the management of survey and title transactions, setting rating valuation standards and recording the physical features of our environment to provide up-to-date maps and information.

Support for emergency services

Supporting the work of our country's emergency services by making available copies of maps and charts to operational teams engaged in search and rescue, civil defence and emergency response work.

Regulatory systems

Exercising our role as stewards of key regulatory functions, administering 15 Acts, helping determine Aotearoa New Zealand's electoral boundaries, administering the rules for overseas investment and naming geographical features and places.

Geographic, geospatial and property information

Collecting, managing and releasing information to produce datasets, topographic maps and nautical charts for Aotearoa New Zealand, some Pacific Islands and the Ross Sea region of Antarctica.

Crown property

Managing around 2 million hectares of Crown land, river and lake beds, high country pastoral leases and Crown forestry licences on land held for Treaty settlements.

Sea

Surveying our oceans and providing nautical charts and publications to ensure the safety of people at sea.

Data

Making our location-based information easy to find, share and use, providing a location-based reference system to enable accurate positioning of land and sea features and providing access to up-to-date land and seabed data.

Overseas investment

Acting as regulator under the Overseas Investment Act 2005 to help realise the benefits of overseas investment while protecting New Zealand's sensitive land and assets.

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2 Your role as Minister for Oceans and Fisheries

Your role in relation to overseas investment is as a decision-maker under the Overseas Investment Act 2005 (the Act) and the Fisheries Act 1996 (Fisheries Act). 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 persons¹ 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, such as risks to national security and public order, associated with transactions by overseas persons.

The Treasury has responsibility for maintaining the Act and advising on overseas investment policy. 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 relationship as Minister for Oceans and Fisheries.

2.2 Transactions under the Act

Approximately 15 percent of overseas investment in New Zealand is screened under the Act. The remaining 85 percent are considered low risk because they are investments in non-sensitive assets, or they are exempt under the Act.

Consent is required when overseas persons acquire a sensitive New Zealand asset. There are three types of sensitive New Zealand assets:

- sensitive land (including residential land)

¹ 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.

- significant business assets
- fishing quota.

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

The Act also contains a National Security and Public Order (NSPO) notification regime for transactions in strategically important businesses that are not normally captured by the Act. The NSPO regime requires some transactions by overseas persons to be notified to LINZ for screening.

2.3 Recent application volumes

To give you a sense of scale, in the 2022/2023 year, ministers and LINZ decided 484 overseas investment applications. Of these, 39 decisions were made by the ministers. 94 percent of applications were decided within assessment timeframes.

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.²

The Minister for Oceans and Fisheries is rarely expected to make a decision on an overseas investment application. Section 5 (below) outlines recent overseas investment decisions made by the Minister for Oceans and Fisheries.

² As at 16 October 2023.

3 Responsibilities under the Act

3.1 Your role

As Minister for Oceans and Fisheries you are the decision-maker, alongside the Minister of Finance,³ on consent applications involving fishing quota.

While uncommon, ministers may have differing views on an application. If one minister does not grant consent, the application is declined. Where there is disagreement, ministers may attempt to reconcile their respective views before coming to a final decision.

Fishing quota applications are rare. LINZ is not currently assessing any applications from overseas persons to acquire fishing quota. We will inform you if we receive a fishing quota application.

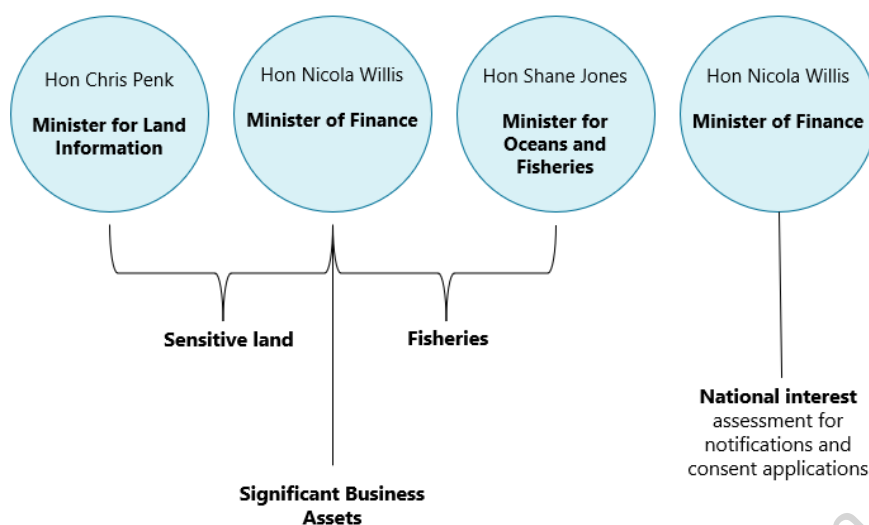
3.2 Other Ministers' roles

There are several Ministers involved in overseas investment matters under the Act in addition to the above roles:

- Minister for Land Information and Minister of Finance are joint decision-makers for some sensitive land applications.
- Minister of Finance makes decisions on national interest decisions and NSPO notifications.

Previously, the Minister of Finance decided national interest decisions and NSPO notifications, and an Associate Minister of Finance was delegated all other decision making under the Act.

³ The Minister of Finance is the other decision-maker on consent applications for fishing quota under the Act but may delegate their decision-making power to an Associate Minister of Finance.



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.⁴ The overseas investment function sits with LINZ's Regulatory Practice and Delivery 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. LINZ also has time-limited Crown funding for the compliance function (enforcement and intelligence) and the NSPO regime.

3.4 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. This letter continues to apply until a new letter is issued.

Under current delegations LINZ decides low-risk applications. This means ministers decide applications for more sensitive assets such as fishing quota consent applications.

⁴ The Minister of Finance has designated the Chief Executive of LINZ as the regulator under the Act.

3 Decisions you will make

3.1 Benefit to New Zealand

Applications to acquire fishing quota must meet the benefit to New Zealand test. Broadly, this pathway requires that overseas investors must:

- satisfy an investor test, by demonstrating they are suitable 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 assesses the likely benefits of the investment regarding various factors. The weighting and importance of each factor and any benefit arising under it is a matter for the decision-maker. Decision-makers must also take a proportionate approach when determining whether the benefit is sufficient to meet the benefit to New Zealand test.

If an overseas investment in fisheries is a transaction of national interest, the investment can only go ahead if the Minister of Finance has not declined consent. How a transaction may become subject to a national interest assessment is described below.

LINZ will provide you with a detailed report to accompany each application. The report will contain all relevant information including advice on the factors you need to take into account for that application.

4 Decision-making process

The Act⁵ sets out what decision-makers (Ministers or LINZ) must consider when deciding whether to grant or decline consent to an overseas investment transaction.

When considering whether to grant consent to an overseas investment transaction, 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 they are satisfied that all of the criteria are met
- must decline to grant consent if they are not satisfied that all of the criteria are met.

LINZ will support you in your decision-making under the Act by providing information to inform your decision. LINZ will provide you with all the documents you need, including detailed guidance on the various legal tests that apply.

4.1 Working with you

LINZ would like to hear how you wish to undertake your decision-making functions alongside the other consent ministers. LINZ will be in contact with your office to determine what assistance it can provide.

LINZ is available to you and your office to provide advice and information.

4.2 Assessment timeframes

Assessment timeframes were introduced on 24 November 2021.⁶ They provide an end-to-end timeframe (including ministerial decision-making) for the assessment of an application, dependant on the pathway. This gives investors greater certainty about how long an application will take to be decided.⁷

The timeframe for fishing quota applications is 200 working days.

⁵ Section 14.

⁶ By the Overseas Investment Amendment Act 2021.

⁷ There is no recourse for an applicant if the timeframes are not met.

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.

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 any particular application or transaction, along with the assessment timeframe that applies to an application and when a decision is due.

4.3 Consultation

You may consult with any person you consider appropriate as part of your decision-making process.

LINZ also regularly consults, including with other government departments and iwi, as part of the assessment of overseas investment applications. The Ministry for Primary Industries is consulted, and provides input into the assessment of, all fishing quota consent applications.

4.4 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.

5 Recent fishing quota decisions

In the past 18 months, ministers have decided one application involving fishing quota.

5.1 Ministerial decision – MacLab (NZ) Limited

2021 decision

On 18 March 2021, ministers declined consent to MacLab (NZ) Limited (MacLab) to acquire up to 50 tonnes equivalent of quota shares of GLM9 (greenlipped mussels – Northland area) and up to 50 tonnes equivalent of quota shares of GLM7A (green-lipped mussels – Nelson/Tasman area).

GLM9 quota is generally used to acquire tiny juvenile mussels (spat). Seaweed washed up on Ninety Mile Beach is the only reliable source of green-lipped mussel spat in New Zealand, making it a highly sought after commodity for mussel farmers.

MacLab extracts compounds from juvenile and adult green-lipped mussels for use in the nutraceutical industry (non-pharmaceutical food containing health-giving properties). It owns and operates a number of mussel farms in the South Island, and a processing factory in Nelson.

For consent to be granted, ministers needed to be satisfied that the granting of consent was in the national interest, having regard to the relevant factors set out in section 57H(2) of the Fisheries Act.⁸ Consent was declined because both ministers were not satisfied that the granting of consent was in the national interest.

2022 decision

On 21 July 2022, ministers granted consent to MacLab to acquire annual catch entitlement (ACE) for green-lipped mussels of up to 10 tonnes in the GLM9 quota management area. The consent was for the right to acquire ACE up to the total consented amount from vendors in any number of transactions in the open market. This related to a new application that was submitted following the decline of the 2021 application.

For consent to be granted, ministers needed to be satisfied that the granting of consent was in the national interest. The investment was likely to result in significant economic benefits. Balanced against that, Northland iwi opposed the investment and pointed out the lack of benefits flowing to Northland. Iwi had also opposed the previous application by MacLab.

⁸ This test has now been replaced by the Benefit to New Zealand test.

Unlike MacLab's previous application, ministers were satisfied that the granting of consent was in the national interest. The request by MacLab to acquire ACE rather than quota (and in smaller amounts) was likely a material factor in this decision.

5.2 Current fishing-related applications

LINZ is currently assessing two applications that relate to the fishing industry. These applications do not include the acquisition of fishing quota, therefore you will not be a decision-maker for these applications.

Sealord – significant business assets

Sealord Group Limited (Sealord) has applied for consent to buy the business of Independent Fisheries Limited consisting of:

- fishing quota
- a lease of premises at 15 Dublin Street, Lyttelton
- 100 percent of the shares in Independent Fisheries Limited
- ACE from Independent Fisheries Limited and Independent Fisheries Holdings Limited
- land, buildings, associated plant and equipment, and approvals for a cold store at 17 Broad Street, Woolston, Christchurch.

Sealord is 50 percent owned by Aotearoa Fisheries Limited, which is ultimately held for the benefit of all Māori, and 50 percent owned by Nissui Corporation, which is listed on the Tokyo Stock Exchange.

Sealord intends to acquire the fishing quota under an existing overseas investment permission granted to it on 17 January 2001. Therefore, consent is only required for the acquisition of significant business assets.

We are collecting further information to understand the impact this acquisition would have on New Zealand's fisheries market structure, the impact on competition (transaction has been cleared by the Commerce Commission), and potential impact on iwi, hapū and the government's Treaty of Waitangi obligations. We intend to seek the Minister of Finance's direction as to whether a discretionary national interest assessment is required.

Significant business asset decisions are made by the Minister of Finance only (unless delegated). This application is currently delegated to LINZ.

Sanford Limited exemption

Sanford Limited (Sanford) has applied for a new exemption from the requirement to obtain consent to acquire an interest in fishing quota to replace its existing exemption.

Sanford is a listed company with limited control over its shareholders. If its shareholding crosses the threshold causing it to become an overseas person (which could occur without notice), Sanford would be required to forfeit any ACE or quota obtained while it was an overseas person.

Any exemption granted would require Sanford to regularly monitor its shareholding and take steps if it inadvertently became an overseas person.

Exemption decisions are made by the Minister of Finance only (unless delegated).

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6 Outlook for overseas investment

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 looking at the wider government context and how this portfolio sits alongside other portfolios (such as trade, economic development or primary industries). We can adapt to any changes you would like to see made.

7 Next steps

LINZ will inform you if an application to acquire fishing quota 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 Oceans and Fisheries in relation to overseas investment are with other ministers.

Other Ministers	
Minister of Finance	<ul style="list-style-type: none"> Decision-making in relation to consent applications for fishing quota and national interest.
Minister of Land Information	<ul style="list-style-type: none"> Decision-making in relation to consent applications for sensitive land.
Māori and iwi	
Māori	<ul style="list-style-type: none"> 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.
Central Government	
Treasury	<ul style="list-style-type: none"> Treasury has responsibility for overseas investment policy and legislation.
Other government agencies	<ul style="list-style-type: none"> 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.
Standing committee for Overseas Investment	<ul style="list-style-type: none"> 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.

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

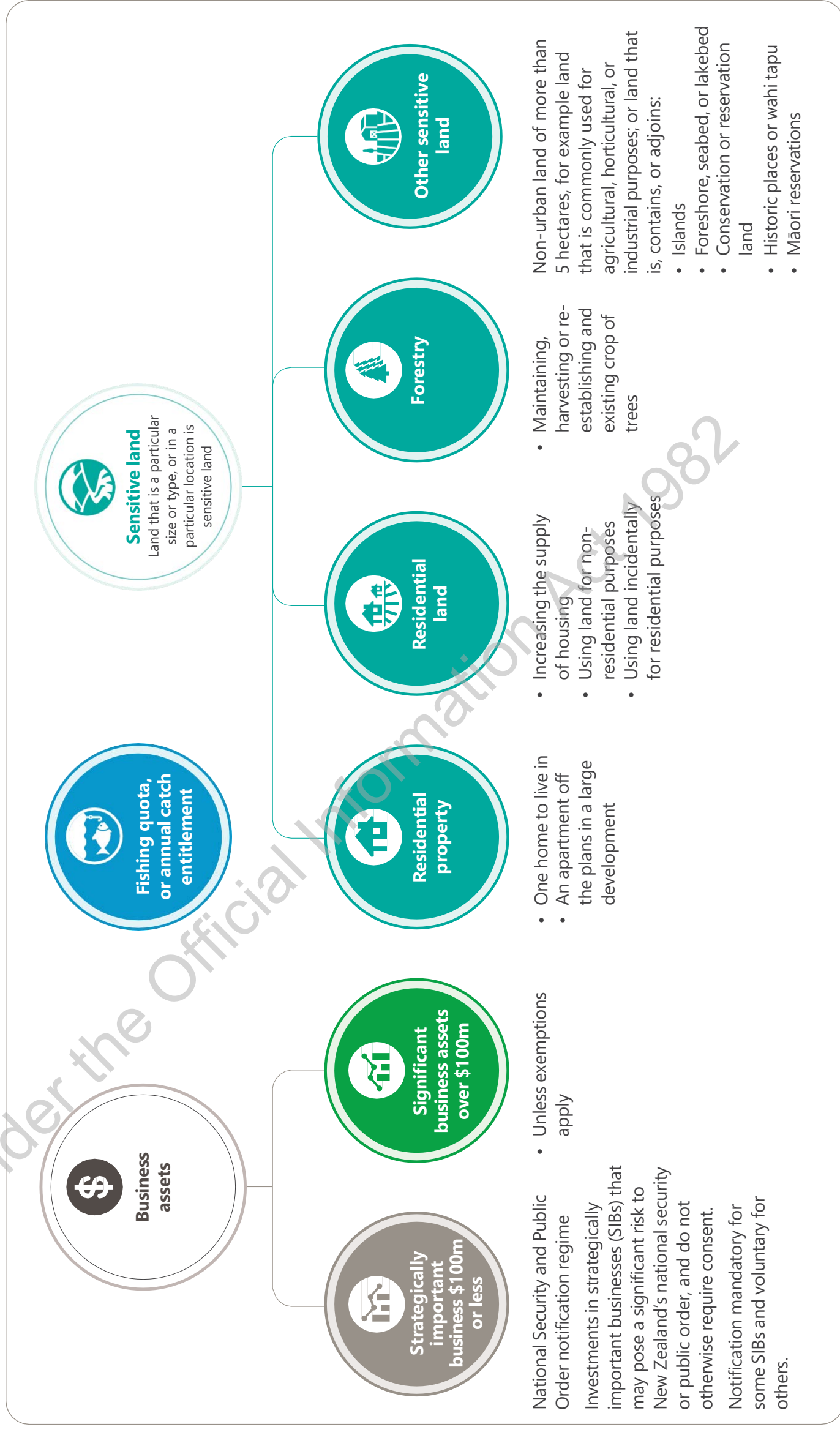
More information on the overseas investment regime, and copies of the current Ministerial Directive Letters and delegation of functions, duties and powers are on the Toitū Te Whenua website linz.govt.nz.

Overseas Investment Act 2005 and Overseas Investment Regulations 2005 are available on the New Zealand legislation website legislation.govt.nz.

New Zealand's foreign investment policy and national interest guidance is available on the Treasury website treasury.govt.nz.

Sensitive assets

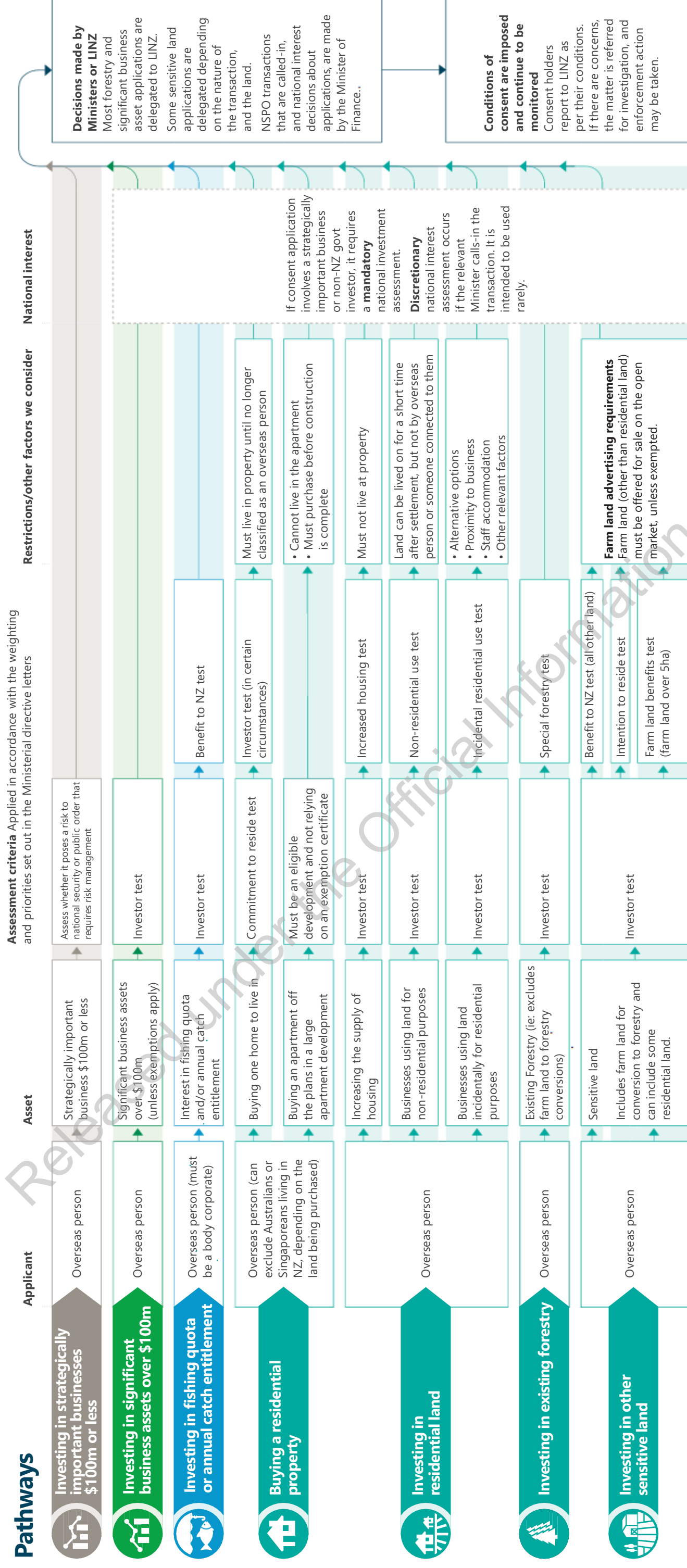
Transactions can involve more than one type of sensitive asset



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.

The Overseas Investment Act 2005 is available on the legislation website: 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?

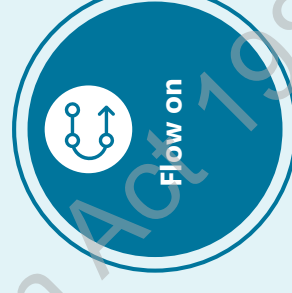
- Give effect to or advance significant Government policy



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



Applying the test

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.

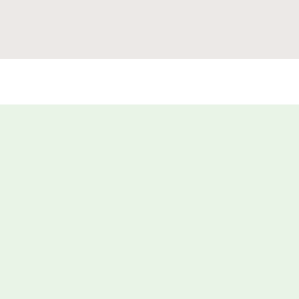
Note – different rules apply to proposed overseas investments involving water bottling.

Proportionality

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.



Farm Land Benefit test

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

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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

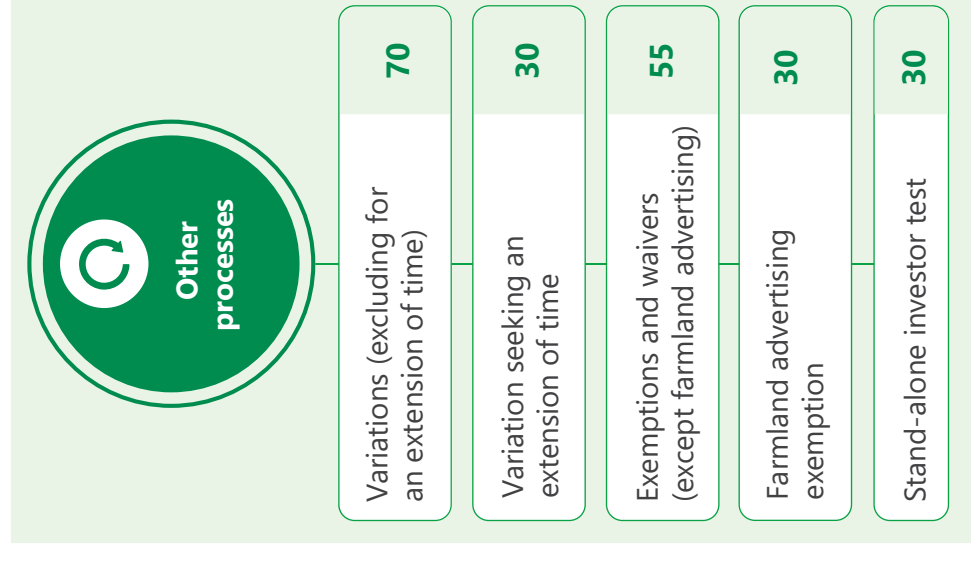
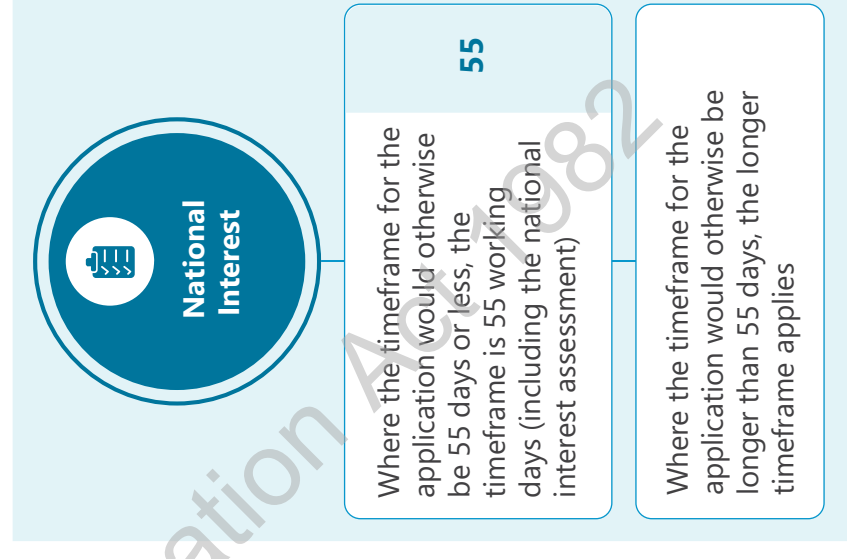
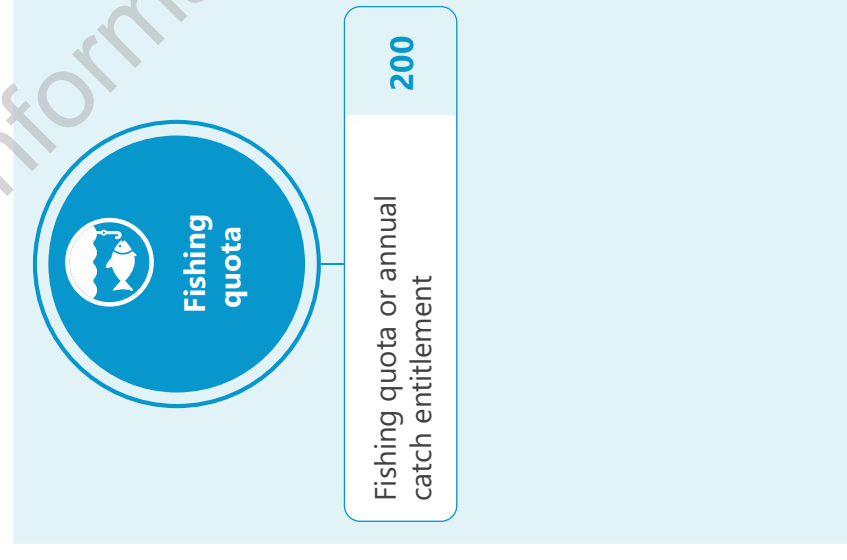
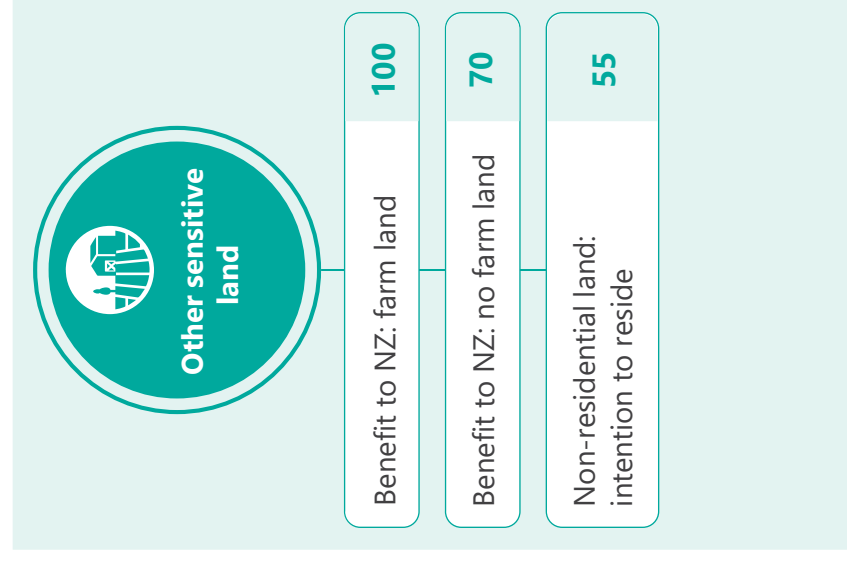
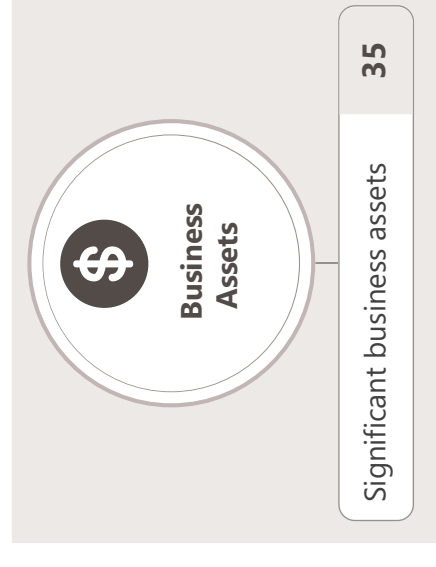
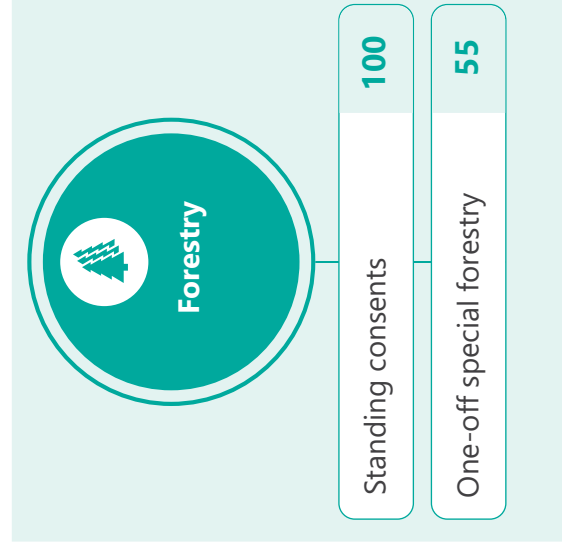
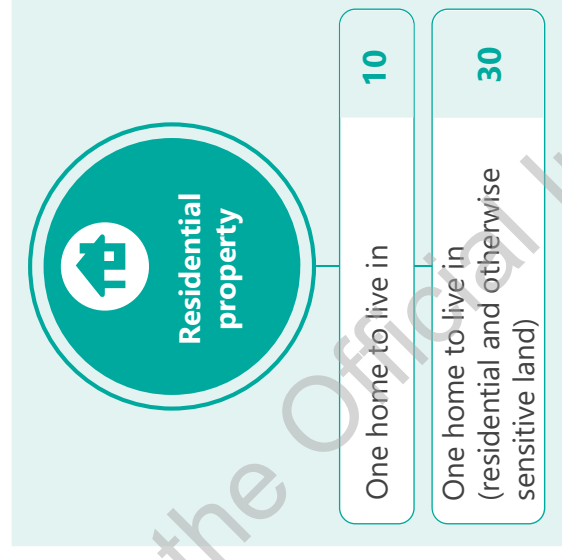
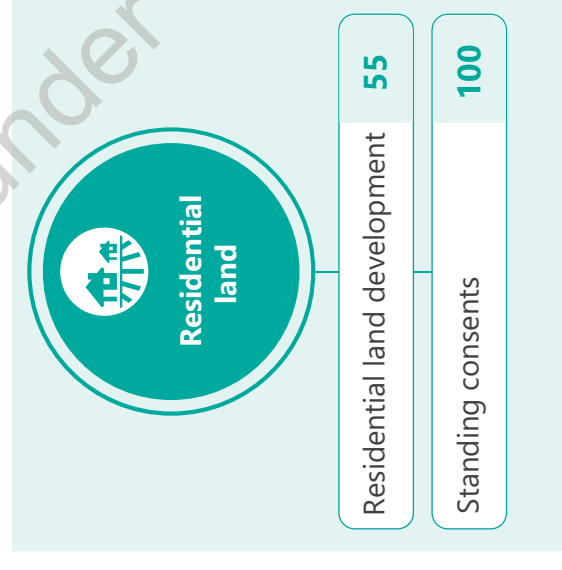
More information on the overseas investment regime and copies of the Ministerial Directive Letters are on the LINZ website: linz.govt.nz/overseas-investment

The Overseas Investment Act 2005 and Overseas Investment Regulations 2005 are available on the New Zealand legislation website: 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 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

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

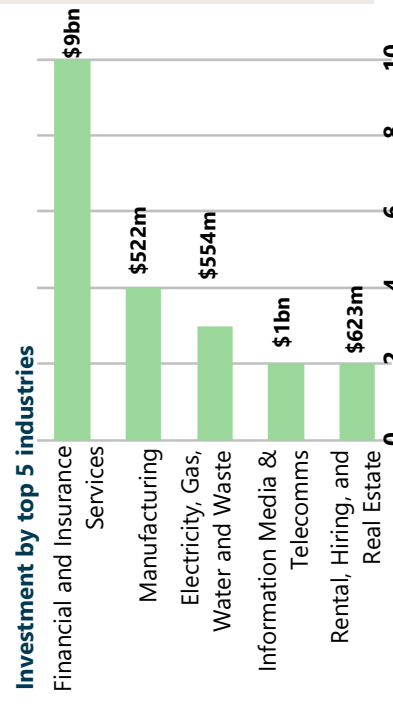
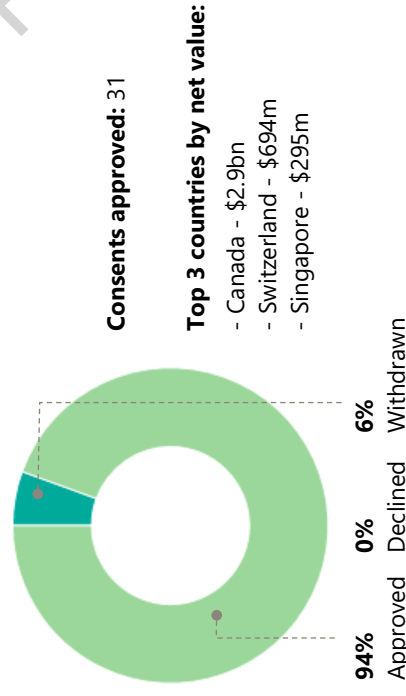
Released under the Official Information Act 1982

Overseas Investment Performance 2022/2023

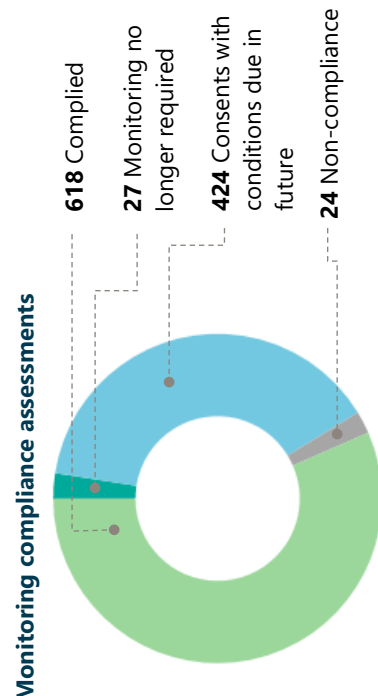
Dashboard for 1 Jul 2022 - 30 Jun 2023



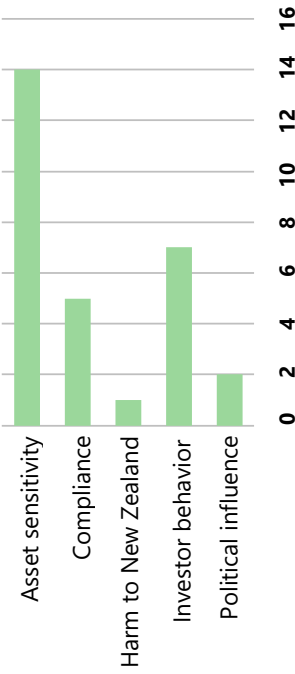
Significant Business Assets only



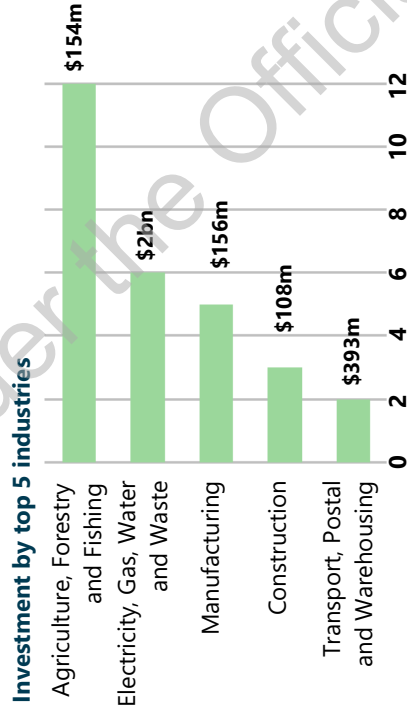
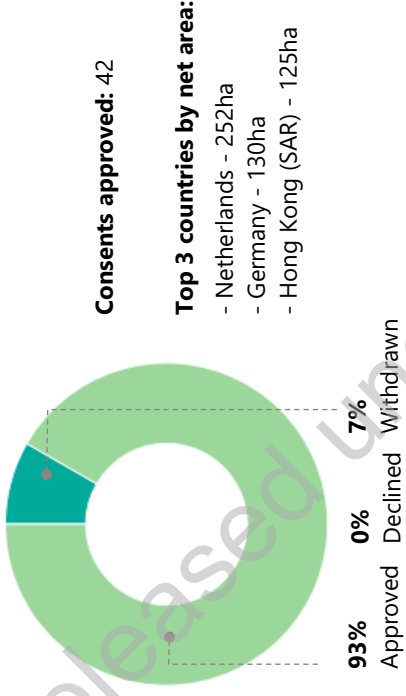
Monitoring



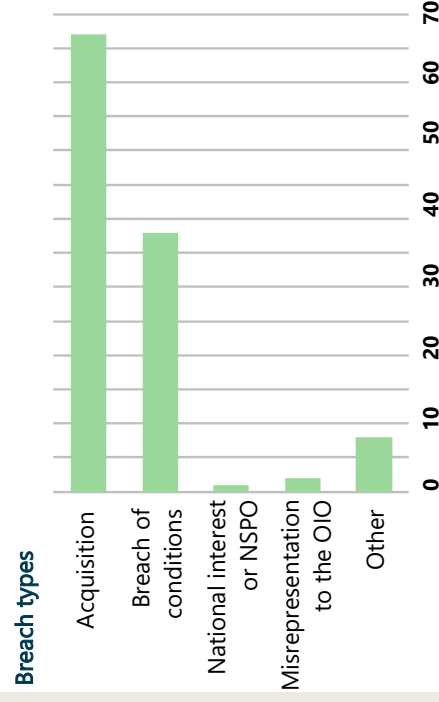
Proactive monitoring risk types



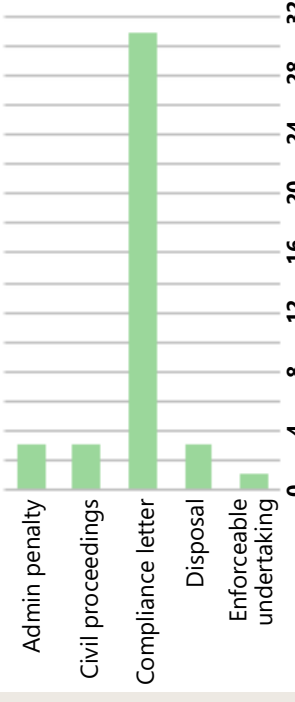
Sensitive Land - Benefit to NZ & Intention to Reside



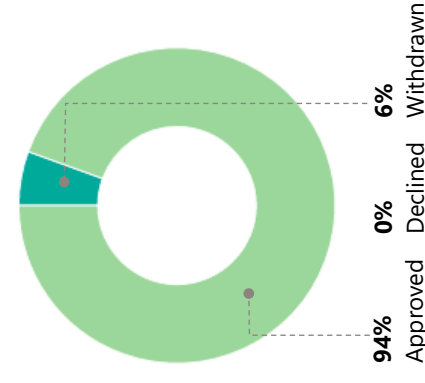
Enforcement



Actions taken



Sensitive Land - Residential Land Development



One-off Consents approved: 11

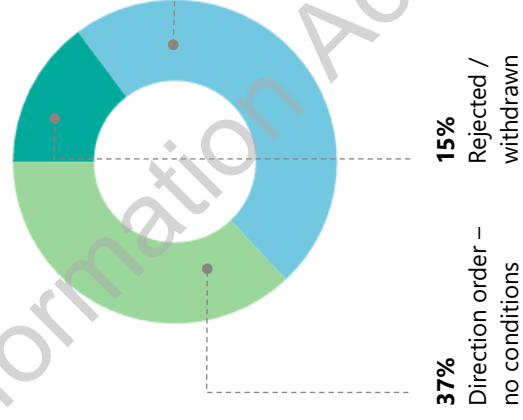
Standing Consents approved: 1

Large Apartment Exemptions approved: 5

Top regions by number of applications:

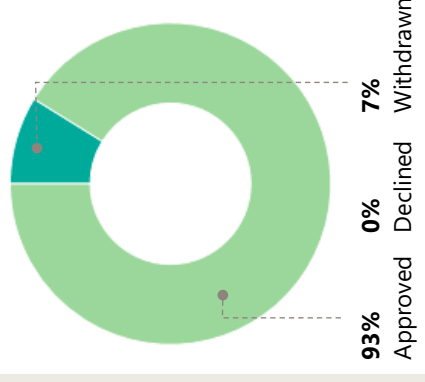
- Auckland (5)
- Canterbury (2)

National Security and Public Order (NSPO) Regime

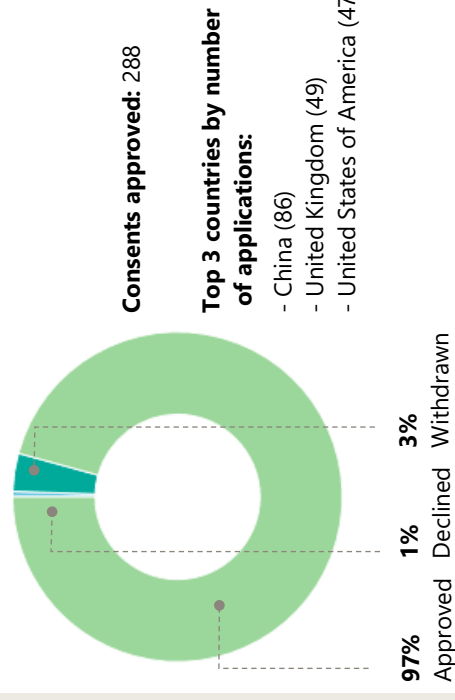


Notifications received: 27

Sensitive Land - Forestry



Sensitive Land - One Home to Live In



Applications received trend

