
Exemption

Read this exemption carefully - you must comply with all the conditions.

Decision date	30 May 2025
Case	202500085
Exemption	<i>Withheld under section 9(2)(a) of the Official Information Act 1982 is exempt from the requirement to obtain consent for the acquisition of a freehold interest in approximately 400 square metres of land at withheld under section 9(2)(a) of the Official Information Act 1982.</i>
Expiry	This exemption expires on 31 May 2026

Definitions

Act means Overseas Investment Act 2005.

LINZ means Toitū Te Whenua Land Information New Zealand. LINZ is also referred to as 'us'.

Regulations means Overseas Investment Regulations 2005.

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

Conditions

If requested in writing by LINZ, *withheld under section 9(2)(a) of the Official Information Act* must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to his compliance with:

- (a) the representations and plans made or submitted in support of the application for the Exemption; or
- (b) the conditions of the Exemption

Amendment or revocation of exemption

The Exemption and conditions of the Exemption may at any time be amended or revoked by LINZ in the same way as it may be made.

Reasons for exemption

The exemption holder is a Canadian citizen who is a New Zealand permanent resident, but does not meet the definition of 'ordinarily resident' under section 6(2)(a) of the Act.¹ For the last 15 years the exemption holder has owned a cross-lease interest in a residential property in Devonport, Auckland (**Property**).

The exemption holder wishes to convert his interest in the Property from a cross-lease interest to a fee simple interest (**Transaction**) to facilitate a property development by his neighbour (the other party to the cross-lease). The exemption holder has applied for an exemption from the requirement for consent under s10(1)(a) of the Act for the Transaction (**Exemption**).

LINZ considers that there are circumstances that mean it is necessary, appropriate, or desirable to grant an exemption to provide flexibility where compliance with the Act is unduly burdensome, and to allow for an exemption that is minor or technical. Specifically:

- the exemption holder acquired his interest in the Property prior to the residential land restrictions of 2018 and the transaction is one that a person might reasonably have expected to be able to complete but for the restrictions;
- without an exemption, the neighbouring property development can't proceed which will adversely affect New Zealanders involved in the transaction;
- The exemption holder has held his existing cross-lease interest for over 15 years;
- The exemption holder did not initiate the transaction but is supportive of it to allow the neighbouring development to proceed;
- The exemption holder has a connection to New Zealand, being a permanent resident who previously lived and worked in New Zealand;
- The exemption holder already owns a substantial interest in the Property under the cross-lease and is not gaining an interest in any new area of residential land; and
- Facilitating the neighbouring development will likely have a positive impact of the availability of housing for New Zealanders.

¹ the requirement in s6(2)(a)(iv) that a person must be present in New Zealand for 183 days or more in total in the immediately preceding 12 months (counting presence in New Zealand for part of a day as a presence for a whole day).

LINZ considers that the exemption is not broader than reasonably necessary as it is limited to 12 months and applies only to the acquisition of land that the exemption holder already holds a beneficial interest in.