Toitū Te Whenua
Land Information
New Zealand

Grocery sector investments under the Overseas Investment Act 2005

Overview

- The Overseas Investment Act imposes controls on some overseas investments, including investments in sensitive land (including residential land and farm land) and investments involving more than $100m.
- The Act generally seeks to:
  - identify a benefit of some kind for New Zealand, and
  - screen transactions for risks to New Zealand's national interest (including national security and public order).
- Some (but not all) grocery sector investments will need consent. For those that do need consent, the process is relatively fast and simple, as grocery sector investments generally make compelling cases for consent.
- No grocery sector consent has ever been declined.
- For investments in residential land, standing consents are available to allow investors to make investments without having to obtain consent every time.
- Unless there is overseas government ownership, the risks to New Zealand's national interest that are typically screened for are unlikely to be seen in a grocery sector investment.
- This guidance will be updated once the Overseas Investment (National Interest Test and Other Matters) Amendment Bill comes into force, likely in early 2026

Scope of this guidance

This guidance outlines the unique characteristics of grocery sector investments and describes how they would typically be treated under the Overseas Investment Act 2005 (the **Act**).

In particular, this guidance deals with investments for different purposes (such as supermarkets and distribution centres), investments of different types (such as the purchase of land or securities), different types of land (such as residential and farm land) and investments by different parties (such as the supermarket operator or a property developer).

This guidance is technical in nature and intended mainly for investors who already have a general understanding of the Act and its requirements and for their legal advisors.

This guidance will be updated once the Overseas Investment (National Interest Test and Other Matters) Amendment Bill comes into force, likely in early 2026.

Grocery sector investment under the Overseas Investment Act 2005

The Government has expressed a desire to see firms enter and grow in the New Zealand grocery sector to deliver more effective competition for the benefit of consumers. Competitors which come from or are funded from overseas will need to consider the impact of the Act on their proposed investment.

Investments in the grocery sector typically need consent when the investor is buying or leasing "sensitive land" on which a supermarket or distribution centre will be built. Consent will also typically be required when an investor buys another person (like a company) that owns or leases sensitive land.

Larger investments, where the total cost of development or the consideration exceeds $100m may also require consent (whether sensitive land is involved or not). Some investors may also need consent to establish a business in New Zealand.

Specific investments might include:

- establishing a grocery business in New Zealand for the first time
- buying an existing grocery business
- buying an existing support business, such as a manufacturing, distribution or transport business
- buying or leasing sites where a supermarket, distribution centre or manufacturing facility will be built.

However despite needing consent for some investments, many other investments will not need consent.

While the rules that apply to a particular transaction depends on the assets involved, no grocery sector transaction has ever been declined consent.

Grocery sector investments may involve different types of investor

The overseas investment rules apply equally to all investors, including direct participants in the grocery sector and third parties that are working with them. Whether the application is made by a grocery market participant or a third party should make no difference to the outcome of the application.

Grocery market participants, or investors closely related to them, are the most likely persons to require consent. Closely related investors may include special purpose vehicles established to hold property, co-investors (such a third party that typically owns property used by the grocery market participant).

Third party investors may include:

- **Property developers:** Property developers developing a supermarket or distribution centre site, either alone or together with other developments (such as a supermarket being developed as part of a shopping centre)
- **Product suppliers:** An existing or new supplier of products to the grocery industry may require a new site to support new or existing grocery market participants.
- **Service providers:** Investments by service providers (like a transport operator) may be required to support a new grocery market participant.
- **Upstream investors:** Changes in ownership of grocery market participants or third-party investors may occur over time.

Grocery sector investments may involve different types of assets

The overseas investment rules apply differently to different types of assets.

Purchase of residential land

Some grocery sector investments will involve residential land. This may involve buying or leasing residential land (typically for a new supermarket site or the expansion of an existing site) or buying an interest in a person (such as a company) that owns or leases residential land.

The rules make it easy for investors to obtain consent for residential land, through either:

- a one-off consent for residential land, or
- a standing consent for residential land, which allows an investor to make multiple investments without having to obtain consent every time.

Investments in residential land for a grocery investment will need to meet three criteria:

- **The investor test:** This ensures that the investor and the people who own and control it are suitable to own or control sensitive New Zealand assets, by assessing whether they are likely to pose risks to New Zealand, based on factors relating to their character and capability.

- **The non-residential use test:** This ensures that the residential land will be used for non-residential purposes (such as a supermarket).[1]

Investments in residential land for a grocery investment may also need to meet **the national interest test.**

No consent for a grocery sector investment in residential land has ever been declined.

Appendix 1 describes the rules that apply to investments in residential land in more detail.

Purchase of farm land or other sensitive land

While a purchase of farm land for a grocery sector investment would be unusual, the possibility cannot be ruled out. More likely is that a grocery sector investment will occur on land that is neither residential land nor farm land. This land may be sensitive (consent required) or non-sensitive (consent not required).

An investment may involve buying or leasing farm land or other sensitive land or buying an interest in a person (such as a company) that owns or leases farm land or other sensitive land.

Investments will need to meet four criteria:

- **The investor test:** This ensures that the investor and the people who own and control it are suitable to own or control sensitive New Zealand assets, by assessing whether they are likely to pose risks to New Zealand, based on factors relating to their character and capability.
- **The benefit to New Zealand test:** This ensures that the investment will benefit New Zealand, having regard to prescribed factors including economic benefits, benefits to the natural environment, and public access benefits, oversight or participation of New Zealanders or advancing a significant Government policy. If the land is farm land, the benefits under the economic factor and/or the oversight or participation factors will need to be "substantial".
- **The farm land advertising requirement:** This ensures that any farm land has been advertised on the open market to non-overseas persons.[2]

Investments in farm land or other sensitive land may also need to meet **the national interest test.**

Investments in the grocery sector are likely to make a compelling argument that the benefit to New Zealand test is met. No consent for a grocery sector investment in farm land or other sensitive land has ever been declined.

Appendix 2 describes the rules that apply to investments in farm land or other sensitive land in more detail.

Purchase of significant business assets (assets worth more than $100m)

Certain transactions involving assets over $100m will need consent even if they don't involve sensitive land.

- **Establishing a business:** Establishing a business in New Zealand, where the cost of establishing the business exceeds $100m
- **Purchase of assets:** Acquisition of property (including goodwill and other intangible assets) in New Zealand used in carrying on business in New Zealand if the total value of consideration provided exceeds $100 million
- **Purchase of securities:** Acquisition of securities of a person (A) if:
  - as a result of the acquisition, the person has a more than 25% ownership or control interest in A, or an increase in an existing more than 25% ownership or control interest in A over a control threshold, and
  - the value of the securities or consideration provided, or the value of the assets of A exceeds $100 million.

The most likely reasons for a transaction requiring consent are:

- acquiring all or part of an existing business (purchase of securities)
- leasing non-sensitive land where the total rental payments (ie: consideration) will exceed $100m (purchase of assets).

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[1] Other pathways may also be relied upon, but the non-residential use test will be the most likely to apply to a grocery sector transaction.
[2] LINZ has the power to exempt investors from this requirement in certain circumstances.

The $100m threshold is higher for some investors. Investors from Australia enjoy a $650m threshold, while investors from some other countries or jurisdictions enjoy a $200m threshold. You can learn more about these alternative monetary thresholds here.

Investments in significant business assets in the grocery sector generally only need to meet **the investor test.** This ensures that the investor and the people who own and control it are suitable to own or control sensitive New Zealand assets, by assessing whether they are likely to pose risks to New Zealand, based on factors relating to their character and capability.

Investments in significant business assets may also need to meet **the national interest test.**

No consent for a grocery sector investment in significant business assets has ever been declined.

Appendix 3 describes the rules that apply to investments in significant business assets in more detail.

Purchase of other assets

The purchase of assets that do not involve sensitive land and where the value of the transaction falls below the relevant monetary threshold is unlikely to need consent.[3]

Associates of overseas person

The Act defines an "associate" (A) of an overseas person (B) as a person who, amongst other things:

- is controlled by B or is subject to B's direction:
- is B's agent, trustee, or representative, or acts in any way on behalf of B, or is subject to B's direction, control, or influence
- acts jointly or in concert with B in relation to the overseas investment
- participates in the overseas investment as a consequence of any arrangement or understanding with B.

The purpose of the definition is to prevent such an investor from circumventing the Act by operating through the medium of a third party such as an agent, nominee or co-venturer. Put differently, an overseas person cannot get around the rules by having a New Zealand investor buy on their behalf.

However some investors become concerned that the breadth of the definition means that New Zealanders cannot be involved with overseas investors at all. Generally speaking, the following transactions are unlikely to need consent:

- A New Zealand property developer buying or leasing land on which it will build a supermarket to lease to an overseas grocery sector participant (though the overseas investor may need consent to lease it from the New Zealander)
- A New Zealand supplier buying or leasing land on which it will build a new factory, in order to supply an overseas grocery sector participant
- A New Zealander operating a franchised or brand licenced supermarket

You can learn more about LINZ's approach to "associates" here.

Recent consents

Since 2016 nine one-off consents and two standing consents have been granted for grocery sector investments, and seven transactions have been given effect under standing consents.

No consents have been declined.

More information about each consent is available in appendix 1 (residential land consents) appendix 2 (non-residential land consents), and appendix 3 (significant business assets consents).

Investors should seek professional advice

Advice from a New Zealand lawyer with experience dealing with the Act will help ensure a good outcome. The lawyer can help to determine whether consent is required and prepare and submit the consent application if needed. If engaged early, the lawyer can help minimise the impact that a consent will have on a transaction.

[3] Strictly, consent may be required if the transaction involves fishing quota, but this is unlikely for grocery sector investment.

More information

The information contained in this document is intended for general guidance only, and the examples provided are for illustrative purposes only.

For more information, we recommend that you seek legal advice from a lawyer who has experience in dealing with the Act.

We also encourage investors to consider meeting with us before submitting an application for consent. A 'pre-application meeting' will help you prepare a clearly reasoned application that contains all the information we will need to assess your application.

You will be able to:

- Explain (at a high level) your overall application for consent and your investment proposal
- Ask any questions you have about presenting specific aspects of your application or about the process of applying
- Get our feedback on how you may be able to improve the quality of your application
- Ask any questions you have about the application process.

For more information:
Phone: 0800 665 463 (New Zealand only)
Phone: +64 7 974 5595 (international callers)
Email: oio@linz.govt.nz

About the LINZ's overseas investment regulatory function

LINZ regulates access to New Zealand's land, residential properties and significant business assets by overseas investors, and makes decisions on overseas investment applications. It administers and applies the Overseas Investment Act. Its work contributes to more homes and jobs for New Zealanders, thriving companies and industries, protection of the places Kiwis treasure, and greater access to them.

Appendix 1 - Purchase of residential land

Investments in residential land will most likely involve the develop of a new supermarket site or the redevelopment or expansion of an existing site.

What is residential land?

Residential land is one of several types of ‘sensitive land’ under the Overseas Investment Act.

Residential land is any land that is categorized as “residential” or “lifestyle” for the purposes of the district valuation roll.[4] This means that its has a highest and best use is deemed to be “residential” or “lifestyle”.

The zoning of the land is not relevant to whether it is residential land or not.

Residential land that is sensitive for other reason (see Appendix 2) is generally subject to the same rules as the ‘other’ sensitive land in Appendix 2.

Criteria for investments in residential land

Investments in residential land for a grocery investment will need to meet three criteria:

- **The investor test:** This ensures that the investor and the people who own and control it are suitable to own or control sensitive New Zealand assets, by assessing whether they are likely to pose risks to New Zealand, based on factors relating to their character and capability.
- **The non-residential use test:** This ensures that the residential land will be used for non-residential purposes (such as a supermarket).[5]

Investments in residential land for a grocery investment may also need to meet **the national interest test.**

One-off consent for residential land

Consent may be granted for a single purchase (eg: buying one lot from one vendor) or for a class of transactions (usually several closely related purchases, such as several lots for a single supermarket development).

A consent for a class of transactions is likely to be of most use to a grocery sector investor.

Investors should be clear if they want consent for a class of transactions.

Standing consent for residential land

A ‘standing consent’ is a form of pre-approval that allows an investor to invest without having to engage with LINZ in advance of each transaction. Standing consents are most attractive to investors who are making a number of investments over a period of time.

The standing consent rules are similar to the rules for one-off consents. In addition, LINZ must also be satisfied that that certain conditions of consent will be met (including conditions requiring the land be used for the purposes above), having regard for matters such as:

- the applicant’s financial strength; and
- the previous activity of the applicant regarding use of residential land; and
- the previous record of the applicant in complying with consent conditions or applying for consent conditions to be varied (although this doesn’t prevent a new investor being granted a standing consent).

Like one-off consents, a standing consent may be granted for multiple individual transactions or for multiple classes of transactions. Investors should be clear if they want consent for a class of transactions.

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[4] The DVR is a data set maintained by local councils to support the rating valuation process.

[5] Other pathways may also be relied upon, but the non-residential use test will be the most likely to apply to a grocery sector transaction.

The duration of the standing consent would depend on the circumstances of each case, but would likely be granted for between three and seven years. Depending on the circumstances, the consent may be limited to a specific number of transactions (or developments) and may have geographical or area limits.

Likely conditions of consent

Consent will generally be subject to conditions requiring the investor to:

- use the land for the proposed purposes (eg: for a supermarket),
- notify LINZ of each purchase made, and
- dispose of the land if not developed or used for the proposed purpose.

How long will consent take to obtain?

While the OI regime is subject to statutory timeframes, approximately 88% of decisions are made in less than half the statutory timeframe.

Asset class	Statutory timeframe	Average time for a decision[6]
Residential land – one off	55 working days	19 working days
Residential land – standing consent	100 working days	50 working days

How much will consent cost?

The following fees are payable:

Asset class	Application fee
Residential land – one off	$35,000
Residential land – standing consent	$57,500 for the standing consent $16,800 per transaction upon notification
National interest test applies	Fee + $83,700

Note that a standing consent will be more cost effective if the investor is acquiring four or more sites. The cost of the two options will be similar for three sites.

Recent consents

The following consents have been granted between 2016 and August 2025. No consents have been declined.

- Case 201900407: One-off consent for Woolworths to acquire land to develop a new Woolworths branded supermarket.
- Case 202300649: Standing consent for Woolworths to purchase residential land for supermarket developments
    - No transactions undertaken under the standing consent
- Case 201900213: Standing consent for Woolworths to purchase residential land for supermarket developments
    - Case 201900213/1: Purchase of land for a new Woolworths supermarket in Alexandra
    - Case 201900213/2: Purchase of land for additional carparking and loading areas for the Woolworths supermarket in Putaruru.
    - Case 201900213/3: Purchase of land for the construction of a new Woolworths supermarket and ancillary retail space at Peacockes Road, Hamilton.
    - Case 201900213/4: Lease of land for a new Woolworths supermarket in Taupo
    - Case 201900213/5: Lease of land for a new Woolworths supermarket in Belfast, Christchurch

[6] Based on decisions made between 1 July 2024 and 30 June 2025. This time excludes time where LINZ is waiting to receive information from the investor.

- Case 201900213/6: Purchase of land for a new Woolworths supermarket on Madras St, Christchurch
- Case 201900213/7: Purchase of land for a new Woolworths supermarket in Rolleston, Christchurch.

Appendix 2 - Purchase of farm land or other sensitive land

Investments in farm land or other sensitive land (usually rural land) for grocery sector investments is uncommon.

What other land is sensitive?

Land can be sensitive land for a number of reasons, in addition to being ‘residential land’ (see Appendix 1).

The most common reason for being sensitive is that the land is “non-urban land” over five hectares. Other more common reasons include land that adjoins land used for conservation purposes or includes the bed of a lake.

It is uncommon for urban land to need consent unless it is residential land.

What is farm land?

Farm land means land used exclusively or principally for agricultural, horticultural, or pastoral purposes, or for the keeping of bees, poultry, or livestock. Land used for forestry activities is not farm land.

Grocery sector investments in farm land are unlikely to be necessary.

Criteria for investments in farm land or other sensitive land

Investments will need to meet four criteria:

- **The investor test:** This ensures that the investor and the people who own and control it are suitable to own or control sensitive New Zealand assets, by assessing whether they are likely to pose risks to New Zealand, based on factors relating to their character and capability.
- **The benefit to New Zealand test:** This ensures that the investment will benefit New Zealand, having regard to prescribed factors including economic benefits, benefits to the natural environment, and public access benefits, oversight or participation of New Zealanders or advancing a significant Government policy. If the land is farm land, the benefits under the economic factor and/or the oversight or participation factors will need to be “substantial”.
- **The farm land advertising requirement:** This ensures that any farm land has been advertised on the open market to non-overseas persons.[7]

Investments in farm land or other sensitive land may also need to meet **the national interest test.**

Investments in the grocery sector are likely to make a compelling argument that the benefit to New Zealand test is met, by:

- giving effect to or advancing a significant Government policy,
- increased capital investment into New Zealand during development of the land,
- increases in both temporary jobs (construction phase) and permanent jobs (operating the completed development), and
- increasing competition in the grocery sector.

Likely conditions of consent

Consent will generally be subject to conditions requiring the investor to:

- apply for and obtain any resource consent(s) required within a specified timeframe
- complete the development within a specified timeframe
- spend a certain amount of capital on the development,
- complete and operate the grocery sector development, and
- continue to meet the investor test.

[7] LINZ has the power to exempt investors from this requirement in certain circumstances.

How long will consent take to obtain?

While the OI regime is subject to statutory timeframes, approximately 88% decisions are made is less than half the statutory timeframe.

Asset class	Statutory timeframe	Average decision time[8]
Other sensitive land - Farm land	100 working days	42 working days
Other sensitive land – Not farm land	70 working days	32 working days

How much will consent cost?

The following fees are payable:

Asset class	Application fee
Other sensitive land - Farm land	$74,000-$141,900
Other sensitive land – Not farm land	$68,200-$135,500
National interest test applies	Fee + $83,700

Recent consents

The following consents have been granted between 2016 and August 2025. No consents have been declined. None of these transactions involved farm land.

- Case 201810065: Consent for Scentre Properties to expand the Westfield Albany shopping centre, including developing a new Woolworths branded supermarket
- Case 201810166: Consent for Hilton Foods to lease land on which to establish a meat processing business, to supply meat products to Woolworths
- Case 201810087: Consent for Woolworths to buy the land on which it already operates a Woolworths branded supermarket
- Case 201620093: Consent for Woolworths to lease land for a Fresh Choice branded supermarket in Cromwell
- Case 201900407: Consent for Woolworths to buy land for a Woolworths branded supermarket in Lincoln
- Case 201900422: Consent for Costco to establish a retail warehouse in Auckland

[8] Based on decisions made between 1 July 2024 and 30 June 2025. This time excludes time where LINZ is waiting to receive information from the investor.

Appendix 3 - Purchase of significant business assets (assets worth more than $100m)

Investments in assets over $100m will occasionally occur in the grocery sector.

Consent is most likely to be required for the establishment of a new business in New Zealand, the purchase of an existing business, or leasing land where the total lease payments will exceed $100m.

Criteria for investments over $100m and not involving sensitive land

Investments in significant business assets in the grocery sector generally only need to meet **the investor test.** This ensures that the investor and the people who own and control it are suitable to own or control sensitive New Zealand assets, by assessing whether they are likely to pose risks to New Zealand, based on factors relating to their character and capability.

Investments in significant business assets may also need to meet **the national interest test.**

Likely conditions of consent

Consent will generally be subject to conditions requiring the investor to continue to meet the investor test.

How long will consent take to obtain?

While the OI regime is subject to statutory timeframes, approximately 88% decisions are made is less than half the statutory timeframe.

Asset class	Statutory timeframe	Average time for a decision[9]
Assets over $100m	35 working days	20 working days

How much will consent cost?

Asset class	Application fee
Significant business assets	$38,000
National interest test applies	Fee + $83,700

Recent consents

The following consents have been granted between 2016 and August 2025. No consents have been declined.

- Case 202400856: Consent for Woolworths to lease land to build a storage facility in Christchurch
- Case 202000234: Consent for Woolworths to lease land to build a temperature-controlled storage facility in Auckland

[9] Based on decisions made between 1 July 2024 and 30 June 2025. This time excludes time where LINZ is waiting to receive information from the investor.

Appendix 4 – Tests that apply to all applications

All of the consent pathways described in the appendices must meet the 'investor test' and may need to meet the 'national interest test'.

The investor test

The purpose of the investor test is to determine whether investors and individuals associated with them are unsuitable to own or control sensitive New Zealand assets, by assessing whether they are likely to pose risks to New Zealand, based on factors relating to their *character* and *capability*.

Relevant factors include:

<u>Character</u>

- Serious convictions
- Terms of imprisonment
- Fines and penalties imposed by a Court

<u>Capability</u>

- Tax penalties or abuse tax positions
- Prohibitions on being a director

It is very rare for an investor or connected individual to fail the investor test. Meeting one of these factors does not prevent the investor or individual meeting the investor test. Meeting one of these factors merely requires greater scrutiny that would otherwise be the case.

Once assessed, an investor and its connected individuals will not need to be reassessed unless there has been a major change to the investor's ownership or control, or the extent to which the investor or its connected individuals engage with the investor test factors.

The national interest test

The national interest test is a 'backstop' tool to manage significant risks. It will be used rarely and only where necessary to protect New Zealand's core national interests. The test's starting point is that investment is in New Zealand's national interest.

Applying the test means that the Minister of Finance can consider the potential risks of a transaction to New Zealand's national interest when deciding whether to grant consent. If a transaction is determined to be contrary to the national interest, consent may be declined, or conditions imposed to mitigate any risks.

When the test always applies

This test will *always* apply to investments that warrant greater scrutiny:

- investments in certain specified strategically important industries and high-risk critical national infrastructure,[10] and
- where a foreign government or its associates would hold a more than 25 per cent interest in the asset.

Other times the test may apply

In rare cases, the national interest test will also apply to other investments. This would be at the discretion of the Minister of Finance and, if a decision was taken to apply the test, investors would be notified as soon as possible.

In the absence of overseas government ownership, the acquisition of bare land on which a grocery sector investment will be undertaken is unlikely to result in the national interest test being applied.

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[10] significant ports and airports, electricity generation and distribution businesses, water infrastructure, telecommunications infrastructure, media entities that have an impact on New Zealand's media plurality, entities with access to, or control over, dual-use or military technology, critical direct suppliers to the New Zealand Defence Force, Government Communications Security Bureau and the New Zealand Security Intelligence Service, and systemically-important financial institutions and market infrastructure (for example, payments systems).

Potential factors that could trigger escalation to the national interest test include:

- foreign government or associated involvement that was below the 25 per cent threshold, but granted that government (and/or its associates) disproportionate levels of access or control to sensitive New Zealand assets
- investments that would grant an investor significant market power within an industry or result in vertical integration of a supply chain, and
- potential inconsistency with Government objectives, for example environmental or economic objectives.

Impact on the consent process

If the national interest test applies:

- an additional $83,700 application fee will be charged
- the statutory timeframe for a decision will be the longer of the usual timeframe (see above) of 55 working days.

Appendix 5 – Case studies

Example one – New grocery sector participant establishing a grocery business in New Zealand

G is an overseas owned supermarket operator that wishes to enter the New Zealand grocery sector.

G's initial investments in New Zealand will include office space, several supermarket sites, a small distribution centre, and a manufacturing site housing a commercial bakery and butchery (in lieu of having those facilities in store. None of the land is sensitive land.

Discussion

Consent will be required if:

- G acquires assets used in carrying on business in New Zealand, if the total consideration exceeds $100m (or any alternative monetary threshold) in a series of related or linked transactions, or
- The total expenditure to be incurred by G, before commencing business, exceeds $100m (or any alternative monetary threshold).

Commencing business

The business will be deemed to have 'commenced' once the first supermarket site is open. Expenditure after this point is not counted.

Likely expenditure would include:

- Site development
- Equipment purchase
- Fit-out
- Stock purchases
- Marketing
- Wages and other costs
- Lease payments made prior to the business commencing

Acquiring assets

Investment of this nature is more likely to be considered as "commencing business" rather than "acquiring assets". However, if G was to acquire assets (like the long-term lease of a supermarket site) prior to commencing business, then consent may be required specifically for that acquisition.

Making an application

It may be possible to grant consent for both the acquisition of assets and commencement of business in a single application, if enough was known about the 'asset acquisition' at the time the 'commencing business' application was made.

The commencing business application should be made before significant steps are taken to establish the business.

The statutory timeframe for consent is 35 working days, although consent is typically granted in about 20 working days.

Example two – Building a distribution centre

Facts

G is an overseas owned supermarket operator. Having successfully established a grocery business in New Zealand, G now wishes to develop a large distribution centre to support its plans to expand.

G proposes to lease an existing facility in Hamilton, which will be redeveloped by the owner to G's specifications. The lease will be for 15 yrs with two rights of renewal. The total lease payments over the entire 25 year term will be between $100m and $200m.

Discussion

Whether consent is needed will depend on whether G can rely upon an 'alternative monetary threshold'.

- No consent will be required if G can rely on such a threshold.
- Consent will be required if G cannot rely on such a threshold.

Example two – Building a distribution centre

If consent is required, G will need to meet the 'significant business assets' test (see Appendix 3).

G will need to meet the "investor test" and may need to meet the "national interest test".

The statutory timeframe for consent is 35 working days, although consent is typically granted in about 20 working days.

Example three – One-off supermarket development by supermarket owner

Facts

G is an overseas owned supermarket operator. Having successfully established a grocery business in New Zealand, G now wishes to develop a new supermarket site in Hamilton.

G has identified two possible sites:

- The first is in an existing retail precinct and is not sensitive land.
- The second is in a new subdivision and involves residential land.

Discussion

Retail precinct

The relevant transaction will be the acquisition of the leasehold interest in the land. Consent will only be required if the total lease payments over the duration of the lease (including rights of renewal) exceeds $100m. The cost of constructing the building, the building fit-out, any stock, etc will not be included.

Residential land

The relevant transaction will again be the purchase or lease of the residential land. Consent will be required.

G will need to meet the 'non-residential use test', 'investor test', and may need to meet the 'national interest test'.

The statutory timeframe for consent is 55 working days, although consent is typically granted in about 19 working days.

Example four – One-off supermarket development by New Zealand property developer

Facts

N is a New Zealand owned property developer. N proposes to buy residential land in Hamilton on which G, a supermarket operator, will operate a new supermarket. G has undertaken similar developments for other lessees.

N will own the land, develop the building and car park, and lease the site to G for 15 years with two five-year rights of renewal.

Discussion

Does N need consent?

As N is not an overseas person, N will only need consent if N is an 'associate' of G (see above).

In the circumstances, it is reasonably open to ask whether N and G are acting jointly or in concert with one another, or if N is participating in the investment as a consequence of an arrangement or understanding with G.

However, it is clear in these circumstances that N is *not* acting on behalf of G, in the sense that G will be the true owner of the land. The purchase by N is a normal investment for N to make, and the owner/lessor and lessee relationship appears to be genuine.

While N and G are acting jointly or in concert with one another for general purposes, and N is likely purchasing the land as a consequence of an arrangement or understanding with G (the commitment to lease it) for general purposes, N is not doing either for a purpose relating to an overseas investment. The investment is genuinely by N, not by G.

Does G need consent?

While N does not need consent to buy (and develop) the land, G will need consent to lease the land from N.

Example five – Multiple supermarket developments on residential land

Facts

G is an overseas owned supermarket operator who wishes to establish several new supermarket sites around New Zealand. G has not identified any specific sites yet but considers it likely that at least some of them will be on residential land.

Discussion

G has two main options:

- seek consent for each site on a one-off basis, or
- seek a standing consent to cover all sites.

Relevant considerations will include:

- **Sensitivity of the land:** A standing consent is only available for land that is sensitive only because it is residential land. Standing consents cannot be used where the land is also sensitive for some other reason.
- **Cost:** Seeking consent on a one-off basis will be more cost effective for one or two sites, will cost about the same as a standing consent for three sites, and will cost more for four or more sites.
- **Time:** A one-off consent is likely to be granted more quickly than a standing consent.
- **Flexibility:** A standing consent gives greater flexibility to purchase as the opportunity arises, without having to engage with LINZ before each transaction.

Example six – Supermarket development by overseas property developer

D is an overseas owned property developer with interests in the "big box" retail sector. It wishes to develop new supermarket sites for existing supermarket brands. While most will not require consent, B anticipates that some sites will be in residential areas and require the purchase of residential land.

Options

B has two options:

- B could seek a one-off consent for each development as it is identified.
- B could seek a standing consent to give it flexibility to undertake developments on residential land without further consent.

Discussion

A one-off consent is likely to be less costly if B considers that only a small number of residential properties (or developments on residential land) will be required.

However, a standing consent may be more attractive if D anticipates undertaking four or more developments on residential land, or if D prioritises the ability to make an unconditional offer for land.