

Exemption

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

Decision Date	28 August 2025
Case	202500483
Exemption	<p>Every person is exempt from the requirement to obtain consent under section 10(1)(a) of the Act for the acquisition of residential (but not otherwise sensitive) land in the Development provided all of the following criteria are met:</p> <ul style="list-style-type: none"> a) The relevant land is residential (but not otherwise sensitive) land; and b) The overseas person acquires the interest in land from the Developer; and c) The overseas person acquires the interest in land before the expiry of the Exemption; and d) 60% or less of the residential dwellings in the Development have been sold to overseas persons. <p>Overseas persons should obtain legal advice before relying on the Exemption. More information is available on the LINZ website: https://www.linz.govt.nz/overseasinvestment</p>
Developer	Shundi Customs Limited (Company number 5342341)
Development	83 Customs Street East, Auckland CBD, Auckland, as defined in the Appendix A.
Expiry	The Exemption applies from the Decision Date until 2 years after the construction of each new residential dwelling in the Development is complete.

Definitions

Act means Overseas Investment Act 2005.

The **construction of each new residential dwelling is complete** on the earlier of:

- a) the issue of a code of compliance certificate for a residential dwelling; or
- b) the issue of a certificate of practical completion for a residential dwelling.

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 Exemption has the same meaning as in the Act or Regulations.

Conditions

The Exemption is subject to the conditions set out at Appendix B and C. The Developer must comply with the Conditions in Appendix B and every person who relies on the Exemption must comply with the Conditions in Appendix C.

The Overseas Investment Act 2005 (**Act**) provides for civil and criminal sanctions for breaching the Act, failing to comply with conditions of exemption and failing to provide information required by LINZ. LINZ has an obligation to investigate and act upon alleged and suspected breaches of the Act.

Amendment or revocation of exemption

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

Reasons for exemption

LINZ have granted various exemptions in relation to the Development since 2018 when the restrictions on residential land were introduced into the Overseas Investment Act. The Development was planned prior to the restrictions on the basis that the dwellings could be sold to overseas persons. The viability of the Development therefore depends on the Developer's ability to sell to overseas persons.

Most recently, in 2023 LINZ granted an Exemption Certificate for Large Apartment Development in relation to the Development.² That exemption certificate was granted under Schedule 3 Clause 4 and permitted overseas persons to acquire dwellings in the Development up to the date the construction of each dwelling was complete. The Developer has now sought a discretionary exemption to effectively extend the time for overseas persons to acquire the dwellings up to two years after the construction of each dwelling is complete.

² Case 202300467 published on the Register of Exemption certificates for large residential developments

The Development has experienced a number of delays including most recently due to a dispute with the construction partner. The Developer has now resolved that dispute and engaged a new construction partner who expects to complete the Development by the end of 2026. The delays have caused unique financial pressures on the Developer and the Developer is now seeking new finance to ensure the completion of the Development. It is a condition of that financing that residential dwellings remain available to overseas persons to purchase, including for a short period after completion.

The 2023 exemption certificate cannot accommodate an extended deadline as it is constrained by clause 4(5)(c). The Developer therefore requires a discretionary exemption, on the same grounds as the 2023 exemption certificate, but with an extended expiry date.

In the circumstances, LINZ consider the Exemption is necessary, appropriate, or desirable because:

- a) the Exemption is minor or technical to effectively extend the timeframe of an existing exemption certificate to achieve the same outcome, which is ensuring the completion of a significant development by permitting overseas persons to acquire dwellings.
- b) The Exemption meets all other requirements of an Exemption Certificate as intended by Schedule 3, clause 4 of the Act.
- c) The circumstances which support the Exemption are largely out of the Developer's control and are unique to this Development which was planned prior to the residential land restrictions being introduced in 2018.
- d) The completion of the Development is dependent on the Exemption as the Developer cannot secure appropriate finance without it. There would be significant financial hardship to both the Developer and the existing purchasers of the dwellings if the Exemption is not granted.

LINZ consider the Exemption is not broader than reasonably necessary as it is limited to acquisitions within 2 years of the completion of each dwelling, it applies only to the initial purchase of a dwelling from the Developer and cannot be relied upon by subsequent purchasers, and, other than the expiry, is subject to the same constraints and conditions as required by Schedule 3, clause 4 of the Act.

Appendix A - Development

1. The Exemption applies to the development, approximately 0.2729 hectares comprised in the below record of titles, street address 83 Customs Street East, Auckland CBD, Auckland.

Record of Title	Legal Description	Area (ha)	Total Area (ha)
80661	Lot 1 DP 320362	0.1123	
NA100C/316	Lot 1 DP 51212	0.0544	
NA761/82	Allotment 35 Section 2 City of Auckland	0.0278	
NA47C/455	Lot 1 DP 43134	0.0784	0.2729

2. The following image indicates the current boundaries of the Land:



3. If there is any inconsistency between the boundary shown in the images at paragraph 2 and 3 and the land area as defined in the records of title, the land area prevails.

Appendix B – Conditions for Developer

Details	Required date
Developer condition 1: attach a copy of the Exemption to the sale and purchase agreement with overseas persons	
If an overseas person intends to rely on the Exemption, you must attach a copy of the Exemption to the sale and purchase agreement (SPA).	<ol style="list-style-type: none"> 1. Before the transaction is entered into, if the date of the SPA is after the Decision Date, or 2. If the date of the SPA is prior to the Decision Date (and conditional upon the Developer obtaining the Exemption) then you must provide a copy of this decision to the overseas person (or their solicitor) and obtain written confirmation that its terms apply to the overseas person acquisition of the apartment.
Developer condition 2: limits on right to dispose of apartments to overseas purchasers	
<p>You must not enter into an agreement to sell a residential dwelling to an overseas person for the purpose of the Exemption if:</p> <ol style="list-style-type: none"> (a) the transaction will result in overseas persons acquiring an interest in more than 60% of the residential dwellings in the Development under the Exemption; or (b) the Exemption is expired; or (c) the residential dwelling is in a building that contains less than 20 residential dwellings. 	At all times.
Developer condition 3: keep a record of all transactions	
<p>You must keep the following information for each overseas person who has acquired a residential dwelling, <u>whether or not the person is relying on the Exemption</u>:</p> <ol style="list-style-type: none"> (a) full name (or if buying as a trust, the name of the settlor, trustee/s and beneficiaries of the trust.); (b) date of birth; 	At all times until the date which the last residential dwelling in the Development acquired in reliance on the Exemption settles.

<ul style="list-style-type: none"> (c) a copy of their passport³ or other relevant citizenship documentation; (d) postal address; (e) telephone number; (f) email address; (g) number, floor and record of title of the residential dwelling being acquired; (h) whether they are an overseas person; (i) whether they are relying on the Exemption; (j) date the transaction was entered into; and (k) date the transaction was settled. 	
<p>Developer condition 4: provide information to us</p>	
<p>You must provide the information in Developer condition 3 to LINZ.</p> <p>For the avoidance of doubt, you are required to provide the information in developer condition 3 to LINZ until all transactions for apartments in the Development are completed.</p>	<p>Within 20 working days of all of the following occasions:</p> <ul style="list-style-type: none"> 1. any written request from us, 2. every anniversary of the Decision Date until the expiry of the Exemption, 3. the date (if any) on which 60% of the residential dwellings in the Development have been acquired by overseas persons relying on the Exemption, and 4. the date on which the last residential dwelling in the Development acquired in reliance on the Exemption settles.
<p>You must also provide all of the following information to LINZ:</p> <ul style="list-style-type: none"> (a) a land transfer plan showing the layout of the apartments in the Development and the total number of apartments in the Development. 	<p>Within 20 working days of all of the following occasions:</p> <ul style="list-style-type: none"> 1. any written request from us (if available, in draft as the case may be), and

³ Note: the passports or other citizenship documents must be of high quality (at least 300dpi), colour scanned copies of current (in date) primary identity document.

	2. the date on which LINZ advise the e-dealing depositing the LT plan has registered.
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Appendix C – Conditions for every person who relies on the Exemption

Details	Required date
Purchaser condition 1: do not occupy the residential dwelling(s)	
<p>None of the following people may occupy the apartment:</p> <ul style="list-style-type: none"> (a) the overseas person relying on the Exemption (b) any overseas person with a 25% or more ownership or control interest in (a) (c) any other overseas person other than on arm's length terms⁴ (d) any overseas person beneficially interested in or entitled to the relevant interest in the residential dwelling (e) if (a) is a trust, any beneficiary (direct or indirect) who may benefit under the trust at the trustees' discretion. <p>This means that overseas persons who rely on the Exemption and the people outlined in paragraphs (b) to (e) cannot live in the apartment unless they have a 'One Home to Live In'⁵ consent allowing them to do so.</p>	<p>This condition applies at any time when you, or any of the people outlined in paragraphs (b) to (e), has any relevant interest⁶ in the land.</p>
Purchaser condition 2: dispose of the residential dwelling if you do not comply with Purchaser condition 1	
<p>If we consider you have failed to comply with Purchaser condition 1 in a material way we may require you to dispose of all relevant interests in the residential dwelling.</p> <p>We will give you written notice if we require you to dispose of the residential dwelling. After we have given you notice, you must:</p>	

⁴ 'At arms length terms' has the meaning in clause 17, Part 5, Schedule 2 of the Act. In summary it means terms, for example under a lease (or other contract), that are on a reasonable commercial basis.

⁵ A 'One Home to Live In' consent, allows you and your family to live in the property as your main home. You can find out more about how to apply for consent under the 'One Home to Live In' consent on our website at <https://www.linz.govt.nz/overseas-investment/information-for-buying-or-building-one-home-live>.

⁶ 'Relevant Interest' has the meaning in clause 2 of Schedule 2 of the Act. In summary it means any interest of any kind (legal or equitable) in the residential land, or any right or interest in securities of a person who owns or controls (directly or indirectly) any interest in the residential land.

1. Value the residential dwelling: obtain and send us a copy of a market valuation of the apartment from a New Zealand registered valuer, unless we agree to waive this requirement.	Within six weeks of the date of our notice.
2. Market the residential dwelling: instruct a licensed real estate agent to actively market the residential dwelling for sale on the open market.	Within six weeks of the date of our notice.
3. Dispose of the residential dwelling: dispose of the residential dwelling to a third party who is not your associate.	Within six months of our notice.
4. Offer without reserve: if you have not disposed of the residential dwelling by the date required in paragraph 3 of this purchaser condition 2, offer the residential dwelling for sale by auction or tender without a reserve price or minimum bid and dispose of the residential dwelling.	Within nine months of our notice.
5. Report to us about marketing: tell us in writing about marketing activities undertaken and offers received for the residential dwelling.	By the last day of every March, June, September and December after our notice or at any other time we require.
6. Report disposal to us: send us, in writing, evidence: (b) that you have disposed of the residential dwelling, (c) of disposal (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered owner), (d) the purchaser is not your associate.	Within one month after the residential dwelling has been disposed of.