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## Exemption

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

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### Exemption

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<b>Decision date</b>	11 December 2024
<b>Case</b>	202400743
<b>Exemption</b>	<p>The acquisition of a dwelling in the Development does not require consent for the purposes of section 10(1)(a) of the Act to the extent that it will result in an overseas investment in sensitive land if:</p> <ul style="list-style-type: none"><li>a) the purchaser entered into the transaction on or before 22 August 2023;</li><li>b) the purchaser becomes the registered owner of the dwelling by 11 March 2025; and</li><li>c) the purchaser acquires the dwelling from the Exemption Holder.</li></ul>
<b>Exemption Holder</b>	<p>Proxima Residences Limited as trustee for Proxima Residences Trading Trust (company number 6044688)</p> <p>We will also refer to each Exemption holder and the Exemption holders together as <b>you</b>.</p>
<b>Development</b>	<p>The development at 47 Randolph Street, Eden Terrace Auckland described in the Transitional Exemption Certificate issued to the Exemption Holder on 17 May 2019 under Schedule 1AA Clause 6 of the Act.</p>
<b>Timeframe</b>	<p>This exemption expires on <b>11 March 2025</b>.</p>

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### Definitions

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**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.

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## Conditions

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Your Exemption is subject to the conditions set out below. You must comply with them. 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.

If requested in writing by LINZ, the Exemption Holder must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its 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

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## Amendment or revocation of exemption

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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

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## Reasons for exemption

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The Exemption Holder has developed 67 freehold apartments on land at 47 Randolph Street, Newton, Auckland. The Exemption Holder obtained a Transitional Exemption Certificate for the development in 2019 to allow overseas persons to purchase these apartments, however, this certificate expired on 22 August 2023.

Transitional Exemption Certificates allow overseas persons to buy units in a building without first obtaining consent under the Act. Unlike other consent and exemption pathways, a Transitional Exemption Certificate allows the overseas person to reside in the unit or use it as a holiday home. Transitional Exemption Certificates helped to ensure that developments that began prior to amendments to the Act in 2018 weren't unduly affected. This was important for apartment developments, which often require pre-sales to ensure funding for the project.

There is ambiguity about when a dwelling will be "acquired" under the certificate. There were two possible interpretations of "acquire":

- a) the overseas person must enter into an agreement to buy a dwelling by the Expiry date; or
- b) the overseas person must become the registered owner of the dwelling by the Expiry Date.

The purpose of this exemption is to resolve that ambiguity by clearly applying the first interpretation.

Compliance with the Act (without the exemption) would be impractical, inefficient, unduly costly, or unduly burdensome. Individual purchasers have options to seek consent for their individual purchases, however these consents would be subject to mandatory conditions that were not contemplated at the time the Transitional Exemption Certificate was granted.

The exemption is minor or technical because it seeks to do no more than to resolve uncertainty about the way the Act applies. The exemption does not seek to substantively alter the intended operation of the Act.

The extent of the exemption granted is not broader than reasonably necessary. The exemption only applies to transactions to which the Transitional Exemption Certificate would otherwise apply and does no more than give effect to one of the two competing interpretations. LINZ are aware of only two transactions that will be effected by the exemption.