



Commitment to Reside (Entity) October 2018

## Application for consent using an entity to buy a home in New Zealand to live in

Fill out this form if you wish to buy or build a home through an entity such as a trust or company and **all** of the following apply:

- some or all of the people with ownership and/or control of the trust or company are **not** New Zealand citizens, nor ordinarily resident in New Zealand
- each of those who are not citizens or ordinarily resident either has a New Zealand residence class visa, or is a permanent resident of Australia or Singapore
- all those with control of the trust or company intend to and must live in the house as their main home.

You can use this form if you have found a home to buy, or to get pre-approval if you have not yet chosen something to buy.

**Note:** You are considered ordinarily resident in New Zealand if you have been present in New Zealand for at least 183 days out of the past 12 months, and hold a residence class visa or are an Australian or Singaporean permanent resident, and are tax resident in New Zealand.

**Note:** if you are buying the home as relationship property (that is, you live in a marriage, de facto, or civil union relationship with a person who also has control of the entity), then only one of you needs to have a residence class visa to apply for consent.

In this form, you will need to tell us if the home you intend to buy is on residential land only, or if you are intending to buy land that is also sensitive for other reasons.

**Note:** Residential land is land with a property category of 'residential' or 'lifestyle'. Property categories are given by a territorial authority (usually district or city council) in its district valuation role. Residential land is usually indicated by a category code 'R' or 'L'. Contact the territorial authority who controls the land you wish to purchase and ask them about the property category of the land, or check a property website such as: [www.qv.co.nz](http://www.qv.co.nz)

**Note:** Sensitive land includes residential land and some other types of land, for example rural land (including lifestyle blocks) larger than 5 hectares, and some coastal land. Sensitive land is described in Part 1 of Schedule 1 of the Overseas Investment Act 2005 as explained here: [www.linz.govt.nz/oio/sensitive](http://www.linz.govt.nz/oio/sensitive)

It is an offence to buy land that is sensitive for another reason without the right consent and you may be fined or receive a penalty. You should seek legal advice if you are in any doubt about the type of land you wish to buy.

Contact details if you have questions about your application

**Phone:** 0800 665 463 (in NZ) or +64 7 974 5595 (if overseas)

**Email address:** [oio@linz.govt.nz](mailto:oio@linz.govt.nz)



## Checklist of documents to include

**Note:** All documents must be in English or accompanied by a copy translated into English.

### For trusts:

A copy of the trust deed **and** any amendments to the trust deed.

### For companies:

A diagram showing the ownership of the company

A copy of the company's constitution (if it has one)

The company's certificate of incorporation (or equivalent) if the company is not a New Zealand company.

### For each person:

Evidence that each person has a New Zealand residence class visa or is a permanent resident of Australia or Singapore.

For each person, a copy of the identity pages of their passport.

### For land that is also sensitive for other reasons:

If you are buying a home or land that is residential but also sensitive under the Overseas Investment Act 2005 for another reason please include (refer to notes in Section 4 for types of evidence):

Evidence that each person has sufficient knowledge and experience, and financial commitment to buy the land, and

Any information to declare about the good character of any of the people who have ownership or control of the company or trust.

If the entity you are buying the home through is a trust, please complete **Section 1**. If it is a company, please complete **Section 2**.

## Section 1: for trusts

### Tell us about the trust

The following questions help us understand who has ultimate ownership and control of the trust. We need this information to determine who needs to be given consent to buy the home and who will need to live in the home as a condition of the consent.



Please attach a copy of the full trust deed, and any amendments to the trust deed.

**Note:** A trust deed is any document that names the trustees and beneficiaries and sets out the rules for how the trust operates. Amendments to the trust deed include any later changes by the settlor (person setting up the trust) or trustees (if the terms of the trust allow this) since the deed was first made. For example, these changes may include:

- appointing or removing a trustee
- changes to the class of beneficiaries (such as 'all children' to 'two of my children')
- changes to the terms of the trust (such as who has power to appoint or remove trustees)
- changes to trust property that is included in the trust.

**Note:** All documents must be in English or accompanied by a copy translated into English.

**Note:** If there is not enough space to list all of the people in each question, reprint this sheet as often as you need and include it with your application.

If the trustee named in the trust deed is not an individual, then you must also complete section 2 of the form in respect of the company.

1. Name of the trust

2. Country the trust was formed in

3. Address in New Zealand

You must have a street or postal address in New Zealand where we can send correspondence and serve legal documents. This can be the address of an agent (someone who is advising you or acting on your behalf for this application), and can be the same address for all people signing this form.

Nominate one person who has a relationship with the trust who we can talk to if we have questions about your application.

4. Name of person who can answer our questions

5. Role or relationship to the trust

6. Phone number

7. Address in New Zealand (if different from above)

8. Email

# Tell us who controls the trust

## Who are the trustees of the trust?

**Note:** For each person who is not a New Zealand citizen or permanent resident, you need to provide:

- evidence that they have a New Zealand residence class visa or are a permanent resident of Australia or Singapore
- a copy of the identity pages in their passport.

Visa evidence might be a copy of the page in the passport with the visa stamp/sticker, or a letter confirming visa or permanent resident approval. If a person has more than one passport, we need a copy of the passport they used to apply for the visa.

### Trustee 1

9. Name

First name

Family name

10. Are they a fixed beneficiary of the trust?

Yes

No

**Note:** A fixed beneficiary is any person who has a fixed entitlement to some or all of the trust's income or assets.

11. Are they a discretionary beneficiary of the trust?

Yes

No

**Note:** A discretionary beneficiary is a person who may receive a share of the trust's income or assets at the *discretion* of the trustees, but they have no actual legal entitlement.

12. Are they a professional trustee with no beneficial interest or entitlement to the home?

Yes

No

**Note:** Professional trustees with no beneficial interest or entitlement to the home do not have to live in the home as their main home, have a residence class visa, or be ordinarily resident in New Zealand. They do not need to complete section 4 if you intend to buy land that is also sensitive for other reasons.

13. Will they live in the home?

Yes

No

**Note:** Living in the home means the property is your main residence. It cannot be a holiday home or merely a place to stay in when visiting New Zealand.

14. Which of the following applies?

They are a New Zealand citizen or ordinarily resident in New Zealand

They have a New Zealand residence class visa



What category of residence visa do they have?

What is the residence visa start date?

DD

MM

YYYY

They are a permanent resident of Australia or Singapore

## Trustee 2

15. Name

First name

Family name

16. Are they a fixed beneficiary of the trust?

Yes

No

**Note:** A fixed beneficiary is any person who has a fixed entitlement to some or all of the trust's income or assets.

17. Are they a discretionary beneficiary of the trust?

Yes

No

**Note:** A discretionary beneficiary is a person who may receive a share of the trust's income or assets at the *discretion* of the trustees, but they have no actual legal entitlement.

18. Are they a professional trustee with no beneficial interest or entitlement to the home?

Yes

No

**Note:** Professional trustees with no beneficial interest or entitlement to the home do not have to live in the home as their main home, have a residence class visa, or be ordinarily resident in New Zealand. They do not need to complete section 4 if you intend to buy land that is also sensitive for other reasons.

19. Will they live in the home?

Yes

No

**Note:** Living in the home means the property is your main residence. It cannot be a holiday home or merely a place to stay in when visiting New Zealand.

20. Which of the following applies?

They are a New Zealand citizen or ordinarily resident in New Zealand

They have a New Zealand residence class visa



What category of residence visa do they have?

What is the residence visa start date?

DD

MM

YYYY

They are a permanent resident of Australia or Singapore

**Note:** If you have more than two trustees, reprint this sheet as often as you need and include it with your application.

# Who has ownership and control of the trust?

List every person who can amend the trust deed or appoint or remove trustees or anyone else who has control over the trust despite not being a trustee. For example, if the trustees normally follow the requests or instructions of a person, that person has control over the trust.

## Person 1

(Include the settlor of the trust if they can amend the trust deed or appoint or remove trustees)

21. Name    
First names Family name

22. Are they a fixed beneficiary of the trust?  Yes  No

**Note:** A fixed beneficiary is any person who has a fixed entitlement to some or all of the trust's income or assets.

23. Are they a discretionary beneficiary of the trust?  Yes  No

**Note:** A discretionary beneficiary is a person who may receive a share of the trust's income or assets at the *discretion* of the trustees, but they have no actual legal entitlement.

24. Will they live in the home?  Yes  No

**Note:** Living in the home means the property is your main residence. It cannot be a holiday home or merely a place to stay in when visiting New Zealand.

25. Which of the following applies?

They are a New Zealand citizen or ordinarily resident in New Zealand

They have a New Zealand residence class visa

What category of residence visa do they have?

What is the residence visa start date?

DD MM YYYY

They are a permanent resident of Australia or Singapore

## Person 2

26. Name

First names

Family name

27. Are they a fixed beneficiary of the trust?

Yes

No

**Note:** A fixed beneficiary is any person who has a fixed entitlement to some or all of the trust's income or assets.

28. Are they a discretionary beneficiary of the trust?

Yes

No

**Note:** A discretionary beneficiary is a person who may receive a share of the trust's income or assets at the *discretion* of the trustees, but they have no actual legal entitlement.

29. Will they live in the home?

Yes

No

**Note:** Living in the home means the property is your main residence. It cannot be a holiday home or merely a place to stay in when visiting New Zealand.

30. Which of the following applies?

They are a New Zealand citizen or ordinarily resident in New Zealand

They have a New Zealand residence class visa



What category of residence visa do they have?

What is the residence visa start date?

DD

MM

YYYY

They are a permanent resident of Australia or Singapore

**Note:** If you have more than two people who can amend the trust or appoint remove trustees or who has control, reprint this sheet as often as you need and include it with your application.

## Beneficiaries of the Trust

Tell us the name of all the beneficiaries in the trust if they are not already listed above.

First name(s)

Family name(s)

## Tell us about the company

The following questions help us understand who has ultimate ownership and/or control of the company. We need to know this information so we can determine who needs to be given consent to buy the home and who will need to live in the home as a condition of consent.

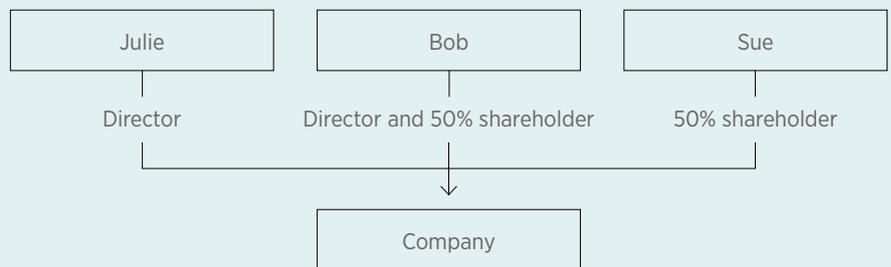
**Note:** For each person who is not a New Zealand citizen or permanent resident, you need to provide evidence that they have a New Zealand residence class visa or are a permanent resident of Australia or Singapore, and a copy of the identity pages in their passport. Visa evidence might be a copy of the page in the passport with the visa stamp/sticker, or a letter confirming visa or permanent resident approval. If a person has more than one passport, we need a copy of the passport they used to apply for the visa.

Please attach the following documents:



A diagram showing the ownership of the company

**Note:** The ownership diagram should show the shareholders and directors of the company. The diagram can be hand-drawn provided it can be clearly understood. For example:



A copy of the company's constitution (if it has one)

**Note:** A company's constitution is any document that sets out the rules governing the relationship between the shareholders and the company and how the company will be run.



If the company is not a New Zealand company, the company's certificate of incorporation (or equivalent)

**Note:** A certificate of incorporation is a legal document that proves that a company has been formed. This document may have a different name for companies incorporated outside New Zealand (such as *articles of association*).

**Note:** All documents must be in English or accompanied by a copy translated into English.

**Note:** If there is not enough space to list all of the people in each question, reprint this sheet as often as you need and include it with your application.

31. Name of company

32. Incorporation number

**Note:** You can find the incorporation number on the certificate of incorporation, or online on the official government register of companies in the relevant country that the company was formed.

33. Country of incorporation

34. Address in New Zealand

**Note:** You must have a street or postal address in New Zealand where we can send correspondence and serve legal documents. This can be the address of an agent (someone who is advising you or acting on your behalf for this application), and can be the same address for all people signing this form.

Nominate one person who has a relationship with the company that we can talk to if we have questions about your application.

35. Name of person who can answer our questions

36. Role or relationship to the company

37. Phone number

38. Address in New Zealand (if different from above)

39. Email

## Tell us who controls the company

Who are the directors of the company?

### Director 1

40. Name    
First names Family name

41. Will they live in the home?  Yes  No

42. Which of the following applies?

They are a New Zealand citizen or ordinarily resident in New Zealand

They have a New Zealand residence class visa

What category of residence visa do they have?

What is the residence visa start date?     
DD MM YYYY

They are a permanent resident of Australia or Singapore

## Director 2

43. Name

First names

Family name

44. Will they live in the home?

Yes

No

45. Which of the following applies?

They are a New Zealand citizen or ordinarily resident in New Zealand

They have a New Zealand residence class visa



What category of residence visa do they have?

What is the residence visa start date?

DD

MM

YYYY

They are a permanent resident of Australia or Singapore

**Note:** If you have more than two directors, reprint this sheet as often as you need and include it with your application.

## Who are the shareholders of the company?

### Shareholder 1

46. Name

First names

Family name

47. What percentage shareholding do they have?

%

48. Are their shares relationship property?

Yes

No



49. If you answered Yes to question 48, what is their spouse or partner's full name?

50. Will the shareholder live in the home?

Yes

No

51. Which of the following applies?

They are a New Zealand citizen or ordinarily resident in New Zealand

They have a New Zealand residence class visa

↓  
What category of residence visa do they have?

What is the residence visa start date?

DD

MM

YYYY

They are a permanent resident of Australia or Singapore

**Shareholder 2**

52. Name

First names

Family name

53. What percentage shareholding do they have?

 %

54. Are their shares relationship property?

Yes

No



55. If you answered Yes to question 54, what is their spouse or partner's full name?

56. Will the shareholder live in the home?

Yes

No

57. Which of the following applies?

They are a New Zealand citizen or ordinarily resident in New Zealand

They have a New Zealand residence class visa

↓  
What category of residence visa do they have?

What is the residence visa start date?

DD

MM

YYYY

They are a permanent resident of Australia or Singapore

**Note:** If you have more than two shareholders, reprint this sheet as often as you need and include it with your application.

## Does anyone else exercise control over the company?

You do not need to list a person who is already listed above.

### Person with control 1

58. Name

First names

Family name

59. Will they live in the home?

Yes

No

60. Which of the following applies?

They are a New Zealand citizen or ordinarily resident in New Zealand

They have a New Zealand residence class visa



What category of residence visa do they have?

What is the residence visa start date?

DD

MM

YYYY

They are a permanent resident of Australia or Singapore

### Person with control 2

61. Name

First names

Family name

62. Will they live in the home?

Yes

No

63. Which of the following applies?

They are a New Zealand citizen or ordinarily resident in New Zealand

They have a New Zealand residence class visa



What category of residence visa do they have?

What is the residence visa start date?

DD

MM

YYYY

They are a permanent resident of Australia or Singapore

**Note:** If you have more than two people who exercise control but are not directors or shareholders, reprint this sheet as often as you need and include it with your application.

## Tell us about the home you wish to buy or build

You can apply for consent even if you have not found a home to buy. If you are given consent you can buy one home to live in.

**Note:** Residential land is land with a property category of 'residential' or 'lifestyle'. Property categories are given by a territorial authority (usually district or city council) in its district valuation role. Residential land is usually indicated by a category code 'R' or 'L'. Contact the territorial authority who controls the land you wish to purchase and ask them about the property category of the land, or check a property website such as: [www.qv.co.nz](http://www.qv.co.nz)

**Note:** Sensitive land includes residential land and some other types of land, for example rural land (including lifestyle blocks) larger than 5 hectares, and some coastal land. Sensitive land is described in Part 1 of Schedule 1 of the Overseas Investment Act 2005 as explained here: [www.linz.govt.nz/oio/sensitive](http://www.linz.govt.nz/oio/sensitive)

You need to fill in out section 4 if you wish to buy land that is residential and sensitive for another reason.

It is an offence to buy land that is sensitive for another reason without the right consent and you may be fined or receive a penalty. You should seek legal advice if you are in any doubt about the type of land you wish to buy.

64. Have you already found a home or land to buy?

Yes  No

If no, go to question 70

65. Property or land address

66. Settlement date (if known)

67. Are you buying bare land to build a home on?

Yes  No

68. Record of Title (if known)

69. Are you buying or building a home on land that is also sensitive under the Overseas Investment Act 2005 for another reason?

Yes  No

If yes, you will also need to complete section 4

If no, complete questions 70 to 73 then go to Agreement on page 15

### Do you already own property in New Zealand?

If you bought property in New Zealand before the new law came into force on 22 October 2018, you can keep it, but you must live in the home you are now applying to buy. If you bought property to live in New Zealand on or after 22 October 2018, you will have to sell that property before buying another home to live in.

Please provide details of all property owned in New Zealand for all people named in Section 1 as applying for consent. If you have more than one property, please print out extra copies of this page and fill in one for each property you own.

70. Address

71. When did you buy the property?

72. Record of Title number (if known)

73. Previous Overseas Investment Office reference number (if relevant)

## Tell us about your suitability to buy land that is also sensitive for other reasons

You only need to complete this section if you intend to buy a home on land that is residential and also sensitive for other reasons (as indicated in Section 3) under the Overseas Investment Act 2005. The following questions help us determine your suitability to buy a home on land that is also sensitive for other reasons.

You must answer for every person named in Section 1 or 2 as having ownership or control of the trust or company buying the home.

**Note:** Professional trustees are excluded.

### Your knowledge, experience and financial commitment to buy the land

74. Do you all have sufficient knowledge and experience and financial commitment to buy the land?  Yes  No

Yes

No

Please attach evidence to show you all have sufficient knowledge, experience and financial commitment to buy the land. Acceptable evidence might include financial approval for a mortgage, evidence of previous home ownership, evidence that you have a professional advisor such as a lawyer, or evidence that you have incurred due diligence costs.



### Your good character

75. Are all the people named in Section 1 and/or 2 of this application who have ownership or control of the company or trust of good character?  Yes  No

Yes

No

76. Is there any information relating to the good character of a person named in this form that must be disclosed to us?  Yes  No

Yes

No

You must tell us anything that may impact the ability of all the people applying for consent to meet the requirements of being 'good character'. For example, if you, or an entity in which any of you had a 25% or more ownership or control interest, have committed an offence or broken the law you must tell us what happened and provide any supporting information such as court documents.



### Your eligibility for a visa or to enter New Zealand

77. Is any person named in this application as having ownership or control of the trust or company not eligible for a visa or to enter New Zealand under sections 15 and 16 of the Immigration Act 2009?  Yes  No

Yes

No

**Note:** People are not eligible for entry if they fall within the categories listed in sections 15 and 16 of the Immigration Act 2009. More information can be found here: <http://www.legislation.govt.nz/act/public/2009/0051/latest/DLM1440598.html>. Section 17 allows the Minister of Immigration to grant a person a 'special direction' to have a visa or enter New Zealand, even if they are disqualified under section 15 or 16.

78. Please provide the name of any person who is not eligible for a visa or to enter New Zealand under section 15 or 16, even if they have been given a special direction under section 17(1)(a) of the Immigration Act 2009

## Agree you are committed to living in New Zealand

To buy a home in New Zealand, all those with ownership control of the trust or company must be committed to living here. They can only buy one home to live in as their main home.

Each of the people who will own the home must sign this agreement, which is a statutory declaration, in the presence of an authorised person. By doing so, you each agree to all of the following:

- you are committed to living in New Zealand; and
- you have read, understood, and accepted the privacy notice on the last page of this form; and
- all of the information in the application is true and correct.

This is a legal declaration and it is a crime to make a false declaration or provide misleading information.

### **Note: How to make sure your statutory declaration is valid**

Each signature on the statutory declaration must be made in front of an authorised person. The authorised person will witness your signature and sign the form to confirm that your signature was made in front of them.

### **Authorised witnesses in New Zealand**

An authorised person in New Zealand who can witness your signature includes a lawyer (including your own lawyer), a notary public, a Justice of the Peace, or a court registrar.

### **Authorised witnesses in other countries**

In a Commonwealth country, an authorised person includes a notary public, Justice of the Peace, New Zealand lawyer, and anyone else who can take an oath in that country. You can also have your declaration witnessed at a Commonwealth Embassy or High Commission.

An authorised person in all other countries includes notaries public and New Zealand lawyers. You can also have your declaration witnessed at a Commonwealth Embassy or High Commission.

### **No one can sign for you**

No one else can sign the statutory declaration for you. When you sign, you agree that everything in the application is true and correct, whether or not someone else filled out part of the form for you.

You can find out more about how to make a statutory declaration here: <https://www.govt.nz/browse/law-crime-and-justice/making-a-statutory-declaration>

**Note:** You may be required to sell the home if you no longer hold a residence class visa, and are not present in New Zealand for at least 183 days in every 12 month period, beginning on the date of consent or its anniversary every year.



## Signatures of all those with control or ownership of the trust or company

### Person 1

I <FULL NAME>, \_\_\_\_\_ <OCCUPATION> \_\_\_\_\_

of <PLACE OF RESIDENCE> \_\_\_\_\_ solemnly and sincerely declare that:

- I intend to be in New Zealand for at least 183 days in every 12-month period, beginning on the date I am given consent and the anniversary of that date until I become a New Zealand citizen or ordinarily resident in New Zealand.
- I intend to become/I am a tax resident in New Zealand, and I intend to remain a tax resident until I become a New Zealand citizen or ordinarily resident in New Zealand.
- If I am buying land that is also sensitive for other reasons, I have disclosed all relevant information relating to my experience and commitment to buy the land, good character, and eligibility for an entry permission or visa.
- I have read, understood and accepted the privacy disclaimer, and
- All of the information in this application is true and correct.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Date

Signature

Declared at  
(City and country)

### Witness

Your witness must be a person authorised to take your statutory declaration. See the notes at the beginning of this section for who you can use.

Declared at  
(Town or city)

Date

Before me  
(Name of witness  
and title)

Signature

Official stamp

## Person 2

I <FULL NAME>, \_\_\_\_\_ <OCCUPATION> \_\_\_\_\_

of <PLACE OF RESIDENCE> \_\_\_\_\_ solemnly and sincerely declare that:

- I intend to be in New Zealand for at least 183 days in every 12-month period, beginning on the date I am given consent and the anniversary of that date until I become a New Zealand citizen or ordinarily resident in New Zealand.
- I intend to become/I am a tax resident in New Zealand, and I intend to remain a tax resident until I become a New Zealand citizen or ordinarily resident in New Zealand.
- If I am buying land that is also sensitive for other reasons, I have disclosed all relevant information relating to my experience and commitment to buy the land, good character, and eligibility for an entry permission or visa.
- I have read, understood and accepted the privacy disclaimer, and
- All of the information in this application is true and correct.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Date

Signature

Declared at  
(City and country)

## Witness

Your witness must be a person authorised to take your statutory declaration. See the notes at the beginning of this section for who you can use.

Declared at  
(Town or city)

Date

Before me  
(Name of witness  
and title)

Signature

Official stamp

**Note:** If more than two people will own the home, reprint this sheet as often as you need. The witness will need to sign any separate sheets.

### We collect information to decide whether you are eligible and to monitor and enforce

Land Information New Zealand collects information about you on this form to:

- decide whether you are eligible for Overseas Investment Office consent to invest in sensitive land in New Zealand
- monitor that conditions are met if we grant consent.

We are authorised to collect this information under the Overseas Investment Act 2005.

### We can share your information for some purposes

We may share information about you as part of:

- administering, monitoring and enforcing the Overseas Investment Act 2005.
- meeting information-sharing agreements we have with some New Zealand government agencies. For example, we share information with the Ministry of Business, Innovation and Employment and the Department of Internal Affairs to verify passport and visa information and travel movements, and to monitor whether a person has become a New Zealand citizen.
- sharing information to maintain the law, such as volunteering information to Inland Revenue; NZ Police; the Ministry of Business, Innovation and Employment; the Serious Fraud Office and other law enforcement agencies.

Applications for consent that you submit to the Overseas Investment Office are a public record. However, the Official Information Act 1982 and the Privacy Act 1993 have provisions that allow us to withhold information contained in an application. More information about the privacy and confidentiality of the information contained in an application can be found at: <https://www.lin.govt.nz/overseas-investment/applying-for-consent-purchase-new-zealand-assets/preparing-your-application-oio/privacy-and-confidentiality-application-information>

### We keep your information secure

All relevant information about you is collected in line with the Overseas Investment Act 2005 and Privacy Act 1993 and is held securely by Land Information New Zealand. Under the Privacy Act 1993, you may see this personal information and ask for any errors to be corrected.

You do not have to provide all the information requested in this form, but not doing so may make it difficult to process your request under the Overseas Investment Act 2005. Please contact [oio@lin.govt.nz](mailto:oio@lin.govt.nz) if you have any questions or concerns about the information in this form.