

## The Overseas Investment Amendment Bill

March 2018

The Overseas Investment Amendment Bill (**Bill**) was introduced to Parliament on 14 December 2017 and will amend the existing Overseas Investment Act 2005 (**Act**).

The intent of the Bill is to restrict the acquisition of residential land by overseas investors and to ensure that any such investment made by overseas persons will have genuine benefits for the country.

### Residential Land is Sensitive Land

The key change proposed by the Bill is the addition of “residential land” to the classes of land which are deemed to be “sensitive land” for the purposes of the Act.

“Residential land” is to be defined by reference to a property’s rating status. Any land that is classified as being either “residential” or “lifestyle” for rating purposes will be included.

### Ordinarily Resident

The definition of “ordinarily resident in New Zealand” is narrowed for the purposes of the new provisions relating to residential land. Where acquiring residential land, in order to meet the test of being “ordinarily resident in New Zealand”, an investor must:

- Hold a permanent resident visa; and
- Have been residing in New Zealand for at least a year; and
- Have been present in New Zealand for at least 183 days in the past year.

### Consent for investment in residential land

An overseas person may be able to obtain consent to acquire residential land if they are able to satisfy one of the following three tests:

- **Commitment to New Zealand** – The overseas person must hold an appropriate visa status and show that they are committed to residing in New Zealand. Consent will be subject to mandatory conditions that the overseas person occupy the property as their main home or divest the investment within 12 months of the acquisition or from the date on which the overseas person no longer qualifies under this test.
- **Increased housing on residential land** – The overseas person must develop the land and add to New Zealand’s residential housing supply. Any consent granted under this exception will be conditional upon the investor developing the land and on-selling within a specified period of time or constructing or extending the operation of long-term accommodation facility.
- **Benefit to New Zealand** – The overseas person must intend to convert the land to another use and be able to demonstrate that such use of the land will have wider benefits to the country. Conditions will be imposed on any such consent such that either the investor must sell the land within

a specified period and/or the investor must not use the land for residential purposes or for long-term accommodation purposes while it remains the owner.

### **Standing Consent**

Overseas persons may be able to obtain a “standing consent” in respect of “residential land” (but not other classes of sensitive land). This type of consent is likely to be useful for developers that are developing a number of residential properties.

Any such standing consent is likely to be subject to reporting conditions. It is unclear how long these “standing consents” would apply and how extensive they might be.

### **Effective Date**

The Bill is to be “forward-looking” and the changes are not intended to apply retrospectively. Therefore, any contracts entered into before the date that the Act comes into force will not be affected.

### **Where to from here?**

The Bill has had its first reading in Parliament. The Select Committee is due to report back by 31 May 2018. We will continue to monitor the progress of the Bill with great interest. The effect of the changes proposed by the Bill are likely to result in wide-ranging changes to investment in residential property in New Zealand.

If you would like more information about the Bill or how it may impact you, please contact us.

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