Coversheet: Screening Overseas Investment in Sensitive Residential Land

Advising agencies	*The Treasury*
Decision sought	*This analysis and advice has been prepared for the purpose of informing final decisions to be taken by Cabinet regarding the Overseas Investment Amendment Bill.*
Proposing Ministers	*Hon David Parker (Associate Minister of Finance)*

This version was prepared for consideration by Cabinet on 11 December 2017. Note that further policy changes were made subsequent to this meeting. The Treasury has not had an opportunity to assess the impacts of these changes.

Summary: Problem and Proposed Approach

Problem Definition: What problem or opportunity does this proposal seek to address? Why is Government intervention required?

This proposal seeks to implement the Government's 100 day commitment to *"ban overseas speculators from buying existing houses."*

Proposed Approach: How will Government intervention work to bring about the desired change? How is this the best option?

The proposed approach is to bring land categorised as either "residential" or "lifestyle" in the relevant council's District Valuation Roll within the category of sensitive land in the Overseas Investment Act.

Investors subject to screening will be eligible to purchase sensitive land that is residential when one of the following tests is met:

- the commitment to reside in New Zealand test;
- the increased housing on residential land ("new builds") test; or
- the benefit to New Zealand test.

Section B: Summary Impacts: Benefits and costs

Who are the main expected beneficiaries and what is the nature of the expected benefit?

The expected beneficiaries of this policy are the New Zealand public. We expect less upward pressure on house prices during periods when the housing market is out of equilibrium, and foreign capital would otherwise flow into New Zealand seeking to buy houses. Other potential benefits could include an increase in the stock of new residential property. However the nature of these benefits is unclear.

Where do the costs fall?

Costs will fall on regulated parties, the Overseas Investment Office, as well as third-party agents involved in property transactions.

Regulated parties: New Zealand and Australian citizens will be exempt from the policy irrespective of where they live. All other nationalities will be subject to screening unless they hold:

- a New Zealand residence class visa (including New Zealand and Australian permanent residents);
- have been resident in New Zealand for the past 12 months; and
- lived in New Zealand for more than 183 days during that period.

To purchase sensitive land that is residential, investors captured by the policy will need to demonstrate that they meet one of the tests (as outlined above). There will be costs associated with the application process, as well as increased compliance costs.

Overseas Investment Office: The Overseas Investment Office will hold primary responsibility for the ongoing operation and enforcement of the new arrangements. It is expected the revised regime will result in a significant increase in the volume of transactions. The Office will also have an expanded role around compliance, monitoring and enforcement.

Real Estate Agents and Conveyancers: Real estate agents will have no formal obligations, but will play an informal role in notifying prospective buyers about the screening regime. Conveyancers will have increased obligations and compliance costs associated with this policy as they will be required to certify that, to the best of their knowledge, the purchase is not inconsistent with screening regime.

What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

The main risks stem from the very tight timeframes under which this analysis has been prepared. As a result, there are a number of implementation risks, these include:

- some of the design choices may be sub-optimal or have unintended consequences;
- the Overseas Investment Office will only have limited time to operationalize the policy; and
- limited time to educate real estate agents, conveyancers and the general public.

Identify any significant incompatibility with the Government's 'Expectations for the design of regulatory systems'.

n/a

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty?

We have greater certainty around some of the costs of this policy, however have limited certainty around benefits.

To be completed by quality assurers:

Quality Assurance Reviewing Agency:

The Treasury[1]

Quality Assurance Assessment:

Not applicable for 100 day plan priorities

Reviewer Comments and Recommendations:

Treasury comments are based on revised expectations for Regulatory Impact Assessments covering 100 day priorities.

The Regulatory Impact Statement clearly sets out the implementation choices and the reasoning for the selection of preferred options from among those. Within the constraints set out in the section “Key Limitations or Constraints on Analysis”, the analysis of the likely impact of the proposed approach on the New Zealand housing market is more limited, for instance through the impact on investor incentives and the commercial attractiveness and viability of building new houses under the new system.

It will be important to continue to focus on ways of monitoring the impact of this policy on overall housing market outcomes to help address this, for example to assess whether new housing built with funding from overseas is additional to, or a substitute for, housing that would otherwise have been built using domestically sourced funding, in addition to continued attention on managing implementation risks.

[1] Regulatory Quality Team

Impact Statement: Screening Overseas Investment in Sensitive Residential Land

Section 1: General information

Purpose

The Treasury is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.

Key Limitations or Constraints on Analysis

The key limitations and constraints applying to this analysis are as follows:

Time constraints: Ministers have directed officials to prepare this policy within the timeframes of the 100 day plan. Accordingly, this analysis has been prepared under tight time constraints. This has meant that there has not been any opportunity to consult with private sector organizations or the general public to inform the development of this policy.

Range of options considered: This analysis has been constrained by the Government's commitment to implement this specific policy. As such, no other housing policy measures (for example policies that would support the broader objective of increasing the supply of residential property), or wider overseas investment regime issues have been analysed or evaluated.

Assumptions underpinning impact analysis: Analysis on the likely impact of this policy is constrained by a lack of empirical data, including around current levels of overseas investment in the housing market. Similarly, it is difficult to assess the extent and nature of the behavioural responses that will result from this policy.

Responsible Manager (signature and date):

Thomas Parry
International, Economic System
The Treasury

30 November 2017

Glossary

CER	*New Zealand - Australia Closer Economic Relations*
CPTPP	*Comprehensive and Progressive Agreement for Trans-Pacific Partnership*
LINZ	*Land Information New Zealand*
MBIE	*Ministry of Business Innovation and Employment*
OIA	*Overseas Investment Act 2005*
OIO	*Overseas Investment Office*

Section 2: Problem definition and objectives

2.1 What is the context within which action is proposed?

The Government has made a commitment to deliver on a number of policy objectives within the first 100 days following the 2017 election. As part of this plan, the Government committed to "*ban overseas speculators from buying existing houses.*"

This policy reflects the Government's view that it wants a housing market with prices shaped by New Zealand-based buyers. Since the global financial crisis those with large trade surpluses or concentrations of wealth have invested unprecedented sums in other countries. This includes buying New Zealand homes for lifestyle or investment. The extra demand from wealthy international investors influences the domestic New Zealand market. The effect of this policy is that in periods when the housing market is out of equilibrium and foreign capital would otherwise be flowing into New Zealand seeking to buy houses, there will be less upward pressure on house prices. High housing prices contribute to household indebtedness by requiring first home buyers to borrow more in order to secure a home.

2.2 What regulatory system, or systems, are already in place?

There are currently no regulations specifically targeted at restricting the sale of residential land to overseas speculators in New Zealand. However, two existing regulatory systems address related issues.

Benefits test for overseas investment in sensitive land

Foreign investment in New Zealand is regulated by the OIA. The Act requires prior approval for overseas investment in sensitive land. Sensitive land is defined in the Act, and includes the foreshore and seabed, non-urban land over 5 hectares, land over 0.4 hectares on certain offshore islands (including Waiheke Island), as well as reserves and historic areas, along with some adjoining land. Under the existing regime, some residential land will also be sensitive land, for example if it is 2,000m^2 or larger and adjacent to the foreshore.

Screening is required where an investor is an "overseas person". Where the investor is an individual this means they are not a New Zealand citizen and are not "ordinarily resident" in New Zealand. "Ordinarily resident" is a conjunctive test – the investor must hold a residence class visa and either be domiciled in New Zealand, or residing in New Zealand with the intention of residing here indefinitely, having done so for the immediately preceding 12 months. Screening is also required where a company, trust or partnership is 25% or more owned or controlled by overseas persons.

The current screening process under the OIA involves assessing an application against a number of criteria. Applicants must meet the "investor test" and either the "benefit to New Zealand test" or a test of intention to reside in New Zealand indefinitely:

- **"Investor test":** investors must demonstrate that they have business experience and acumen, have financial commitment to the investment, are of good character, and comply with certain sections of the Immigration Act 2009[2].
- **"Benefit to New Zealand test":** investors must demonstrate that the investment will benefit New Zealand. This is assessed against a number of factors including the creation of jobs, increasing investment and export receipts, and a range of environmental and other factors. if the land is non-urban land over 5 hectares, the benefit must be substantial and identifiable.

[2] Sections 15 and 16 of the Immigration Act prohibit visas being issued to people with serious criminal convictions, or connections with terrorist groups,

The OIO assesses applications to make sure they meet the criteria in the OIA. Consent is granted if all of the criteria are met. Consents are granted subject to conditions that are monitored to ensure compliance. The consent process takes on average five months to complete.

Sensitive land applications are determined by the Minister of Finance and the Minister for Land Information. Certain decisions are also delegated to the OIO for determination.

Bright-line test for the taxation of residential property

In 2015, a two-year bright-line test for the taxation of residential investment property was introduced. This test provides an unambiguous rule to supplement the "intention" test for taxing capital gains in the current land sale rules. Many taxpayers did not appear to be self-assessing their sales as taxable, while the subjective nature of the 'intention test' made it difficult to enforce. The bright-line test was targeted towards the problems of enforcement in relation to the significant churn and short term speculation in residential property.

2.3 What is the policy problem or opportunity?

The policy problem this analysis addresses is how to implement the Government's commitment to "*ban overseas speculators from buying existing houses."* Ministers have indicated that the scope of this policy is intended to be broader than just existing houses, but rather apply to all residential land (including undeveloped land). In our analysis, we have reframed 'overseas speculators' as 'overseas persons,' as determining intention at the point of purchase is extremely difficult. Some overseas persons intending to live in the New Zealand home they purchase may be granted consent to do so, with a condition to sell the house on leaving New Zealand (Option C4 discussed below – those overseas persons are not speculators.)

There are three broad sets of issues that need to be addressed to implement the policy. We have identified multiple options to address each issue, which are discussed in detail in the following section. The three sets of issues are grouped under the following headings:

I. **Implementing the policy**
II. **The new builds test (increased housing on residential land)**
III. **Role of real estate agents and conveyancers**

2.4 Are there any constraints on the scope for decision making?

As the Government has already publicly signalled their policy intention, and have directed officials to proceed accordingly, this analysis is focused exclusively on the implementation of this policy. Thus, this analysis has been prepared on the basis that the decision to proceed on this policy has already been made. This analysis is focused only on residential land and modified enforcement powers to better implement the policy. Any broader considerations of the overseas investment regime or housing policy are out of scope.

The commitments under New Zealand's existing trade agreements provide a constraint for decision makers. In addition, certain changes to New Zealand's domestic investment settings (including changes to the scope of investments screened under the OIA) need to be passed prior to the CPTPP agreement coming into force.

2.5 What do stakeholders think?

The Treasury has consulted the following departments in the development of the advice: LINZ, MBIE, Ministry of Foreign Affairs and Trade, Ministry of Justice, Inland Revenue, Parliamentary Counsel Office and Te Puni Kōkiri. Due to the short timelines that this advice has been prepared under, there has been no consultation with private sector organisations or the public. However, we understand that the Bill will be referred to a Select Committee, so there will be an opportunity for the public to make submissions on the policy.

Section 3: Options identification

The following section examines the first two sets of issues with respect to meeting the policy objectives.

I. Implementing the policy

A. What is the best delivery mechanism for the policy?
B. Which property should be subject to the policy?
C. Who should be covered by the policy?

II. The new builds test (increased housing on residential land)

D. What qualifies as a new build?
E. How to apply the new build test?
F. How to apply the ability to let under the new build test?

We identify and discuss options to address each issue, and then evaluate these options against the following criteria:

Criteria:

- **Policy effectiveness:** The policy is effective, has the coverage intended, minimises any unintended consequences, and provides a mechanism for overseas investors to build new houses for sale where this supports increasing the housing supply without adding to demand.
- **Compliance with New Zealand's international obligations:** Obligations in a number of existing trade and investment agreements include the obligation not to discriminate between investors on the basis of nationality.
- **Minimising compliance and administration costs:** The policy is supported by clear and simple rules that fit in with existing regulatory frameworks and land sale processes.

The role of real estate agents and conveyancers is dealt with subsequently as these options are considered against a different set of criteria.

I. Implementing the policy

A. What is the best delivery mechanism for the policy?

Issue: The first issue is to identify an appropriate regulatory framework to deliver this policy. A critical element of this is determining whether the delivery mechanism has existing compliance and enforcement mechanisms which could be used.

Option A1: *Overseas investment screening regime*	• This approach would utilise existing features of the OIA, including the screening regime, which requires overseas investors to obtain government consent before acquiring certain investments, including sensitive land. • This option would bring residential land within the category of sensitive land in the OIA.
Option A2: *Conveyancing agents eligibility check*	• This option would require conveyancing agents to undertake an eligibility check on housing transactions. This would require changes to the Land Transfer Act (or an alternative new piece of legislation) requiring a certificate that the new beneficial owner is not an overseas person for the sales transfer to proceed.

Preferred – Option A1: On balance, we favour option A1 – the overseas investment screening regime, given that it is consistent with policy space preserved in trade agreements for the operation of our overseas investment screening regime. It also provides a better platform for implementing a test for new builds.

We consider that Option A1 provides the best balance against the three policy criteria:

- *Policy effectiveness*: Option A1 allows this policy to utilize a number of useful anti-avoidance provisions already embedded in the OIA regime including capturing beneficial owners and transactions on behalf of associates[3]. In comparison, the Land Titles Register under Option A2 does not currently record beneficial interests and there would be some additional complexity adding that requirement. With respect to new builds, it would be easier and more efficient to include new builds under Option A1 than under Option A2.

- *International obligations*: Option A1 is consistent with policy space preserved in trade agreements for the operation of our overseas investment screening regime (except in relation to our trade agreements with Singapore and Australia).

- *Minimizing compliance and administrative costs*: Significant additional resources would be needed for the OIO to implement Option A1. LINZ will require additional funding to implement this option until a cost recovery model is established from 2019/20 for the screening and monitoring functions. Compliance levels could be increased through involvement of the conveyancing sector. In comparison, under Option A2 the compliance regime would be outside of the Government's control which may necessitate a new oversight regime for the conveyancing industry. Under this option the costs of the screening regime would be spread across all purchasers (including New Zealanders).

We favour creating a regime which allows overseas persons to seek 'pre-approval.' This would enable developers to engage in land purchasing programmes, and individuals to make unconditional bids or bid at auction for houses by having a "standing consent" from the OIO. This aligns with the objective of minimizing compliance and administrative costs.

[3] Associates as defined in the OIA include people acting jointly or in concert, or on each other's behalf, in relation to the overseas investment.

B. Which property should be subject to the policy?

Issue: A clear definition of "residential land" is important so it can be easily determined if the land is covered by the policy. This reduces risks that the policy will upset property transactions – for example if an overseas person enters into an agreement to purchase land (that they believe is not residential land), only to subsequently find out that the land is classified as "residential land" meaning the sale cannot be finalised.

Option B1: *Using the Rating Valuation Rules*	• Under this option, residential land classified as sensitive land would be properties classified in the relevant council's District Valuation Roll as either "residential" or "lifestyle". • These classifications are performed according to the Rating Valuations Rules, which are issued by the Valuer-General under the Rating Valuations Act. These rules require councils to assign a "property category" to each property based on its highest and best use (which can be different from its actual use). • Residential land is defined in the Rules as "residential land of a domestic type". Lifestyle property is land that is larger than an ordinary residential allotment, generally in a rural area, where the predominant use is for a residence and farming the land is not economic.
Option B2: *Using the Income Tax definition of residential land*	• Under this option, residential land classified as sensitive land would be all properties that meet the definition of "residential land" in the Income Tax Act. This definition specifies that "residential land" is: i. land that has a dwelling on it: ii. land for which the owner has an arrangement that relates to erecting a dwelling: iii. bare land that may be used for erecting a dwelling under rules in the relevant operative district plan; • Land that is used predominately as business premises or as farmland is excluded from being "residential land". This definition is used in the 2-year bright-line rule and in the residential land withholding tax rule.
Option B3: *Zoning basis definition*	• Residential land classified as sensitive land would be all properties that are zoned as residential in the relevant proposed or operative district plan.
Option B4: *Definition based on intention of use*	• Under this option, "residential land" would be classified as sensitive land if it is purchased by a person who intends to use the land primarily for residential purposes. • In contrast to the options above, the classification of a property would not rely on the characteristics of the land itself, but rather on how that land is intended to be used. This means, for example, that a large farm would be classified as "residential land" if it is purchased by a person with no intention to actively farm the land. Similarly, a house would not be classified as "residential land" if it is purchased by a person who intends to operate a business from the property.

Preferred – Option B1: On balance, we favour option B1 which defines residential land as land that has a property category in the relevant council's District Valuation Roll as either "residential" or "lifestyle" under the Rating Valuation Rules.[4]

We consider option B1 to be the strongest option when assessed against the policy criteria established for this policy:

- *Policy effectiveness*: this approach covers a broad range of residential-type land and carves out non-residential land.
- *International obligations*: n/a
- *Minimizing compliance and administrative costs*: whether a property is "residential land" can easily be determined by prospective purchases and the OIO under option B1. We note that adopting option B1 would introduce another definition of "residential land" to be considered when the land is being sold – option B2 is already used in the context of residential land transactions, such as when considering if the 2-year bright-line rule applies for tax purposes. However, given the simplicity of the option, and the importance of a clear rule in this context, we consider B1 the best option.

While this is a new use for the District Valuation Roll, we note that it is designed to underpin a form of taxation (council rates). Because of this, each council's Roll is audited periodically by the Valuer General to ensure national consistency and is maintained by registered valuers appointed by the council.

We also note that a property owner can object to how their property has been classified on the Roll – for example, if a property has been classified as lifestyle but would be better classified as pastoral. An objection does not mean that the classification will necessarily be changed, however; it means that the relevant councils' valuation provider will consider what the classification should be.

A possible consequence of restricting sales of residential land to overseas persons is that some companies that are 25% or more overseas owned or controlled may be restricted from purchasing residential land for a non-residential purpose (e.g. a supermarket or shopping complex). We recommend allowing the use of the existing benefits test in the OIA to allow the purchase of residential land for a non-residential but otherwise "beneficial" use.

4 Strictly speaking, a property's classification is not recorded in the DVR but is recorded as part of the "supporting information" that councils are required to maintain for each property alongside the DVR.

C. Who should be covered by the policy?

Issue: The intention of this policy is that New Zealand citizens will be able to purchase sensitive land that is residential without OIO screening, regardless of where they reside. The intention is also that citizens of other countries that hold New Zealand residence class visas (including permanent residents) and live in New Zealand be able to buy a sensitive land that is residential in New Zealand without OIO consent. Therefore, we have focused our analysis of options on residence class visa holders not resident in New Zealand and temporary visa holders.

Residence class visas include two categories:

- **permanent resident visas** – which have no conditions and do not expire if the person is outside New Zealand; and
- **residence visas** – which may have conditions and can expire if the person is outside of New Zealand. As long as they remain in New Zealand, people with Resident Visas have a right to reside in New Zealand indefinitely (provided certain conditions are met). They can be eligible for a Permanent Resident Visa if they spend enough time in New Zealand or meet other specified criteria demonstrating a commitment to New Zealand.

Australian citizens and permanent residents will be treated the same as New Zealand citizens and permanent residents in accordance with commitments under the CER.

Option C1: *Use definition of "ordinarily resident in New Zealand" from OIA*	• This option would adopt the definition of "ordinarily resident in New Zealand" currently contained in the OIA. The test determines whether a residence class visa holder is ordinarily resident or domiciled in New Zealand and therefore eligible to invest without screening. In many cases, an investor that resides in New Zealand for 183 or more days within the last 12 months is likely to meet this test. • The existing definition of "ordinarily resident in New Zealand" requires an investor to judge whether they are 'domiciled' in New Zealand or 'residing in New Zealand with the intention of residing there indefinitely'.
Option C2: *Establish a bright line test solely based on visa status*	• This option would permit holders of New Zealand residence class visas, including permanent residents, to invest without consent, whether or not the visa holder in fact resided in New Zealand.
Option C3: *Establish a bright line test based on visa status and actual residence*	• This option would allow a person to invest if they hold a residence class visa and have been in New Zealand for a certain period of time. • A bright line version test of actual residence could be based on the existing OIA test. This would require a person to have been resident in New Zealand for 12 months, and present in New Zealand for at least 183 days in that period. However, it would not contain a requirement that the person intends to reside in New Zealand indefinitely. This test is more difficult to meet than the test for tax residency but is consistent with the purpose of this policy.

Option C4: *Option C3, plus a mechanism to allow others with strong commitment to reside in New Zealand to buy a home in some circumstances*	• This option extends option C3, so that some holders of residence class visas who do not meet the test of actual residence, and some holders temporary visas who have a demonstrated commitment to reside in New Zealand can also buy sensitive land that is residential. • They would need to obtain consent from the OIO for the purchase (which they could also obtain before purchasing land under the pre-screening mechanism for a "standing consent" mentioned above). • They would be required to live in the house and they would be required to sell the land within a specified time of ceasing to be resident in New Zealand or their visa expiring or being revoked.

Experience from Australia: The Australian regime provides a process for temporary residents with valid visas to apply to purchase one established dwelling to live in as their residence in Australia, subject to conditions including that they sell the property within three months from when it ceases to be their principal place of residence.

Preferred – Option C4: On balance, we favour adopting option C4. This would involve establishing a bright line test based on visa status and actual residence, plus a mechanism to allow others with a demonstrated commitment to reside in New Zealand to buy a home in some circumstances.

We consider that Option C4 provides the best balance against the three policy criteria:

- *Policy effectiveness*: the test clearly establishes those that can invest in New Zealand and provides a pathway for others.
- *International obligations*: The ability for overseas persons with a strong commitment to New Zealand provides another avenue for these people to purchase sensitive land that is residential land.
- *Minimizing compliance and administrative costs:* the 12 month and 183 day test would be far more clear than the existing "ordinarily resident in New Zealand" test in the OIA.

MBIE's preference was for option C2 (establishing a bright line test solely based on visa status) and the ability offered by option C4 to exempt some temporary visa holders. MBIE notes that the immigration system works to assess resident visa holders' potential to contribute to New Zealand. The rationale for supporting this option was that it would minimise the impact on high value migrants, would be simple for potential buyers and migrants to understand and for the OIO to enforce. Treasury notes that this would be a more liberal option than the current OIA test for being ordinarily resident in New Zealand.

II. The new builds test (increased housing on residential land)

Issue: The screening of investment in sensitive land that is residential by overseas persons is a demand-side measure, however an aim of this policy is to not impede the broader objective of increasing the supply of residential housing. This broader objective therefore is supported by a test for those who are building new homes to on-sell or to let, as this would serve to increase supply.

D. What qualifies as a new build?

Issue: For this policy to be effective, there will need to be clear parameters around what will qualify as a "new build." The intention is that the test will allow overseas investors to obtain consent to purchase sensitive land that is residential (either vacant or with an existing dwelling), only if the investment will result in a greater number of dwellings on the land.

We also recommend that the test apply to investments that result in development of long-term accommodation facilities, which include: retirement villages, aged care facilities, student accommodation and similar facilities. These facilities provide long-term accommodation for residents, who live there as their primary place of residence, and so effectively represent an increase in the supply of residential housing.

We recommend allowing overseas persons to purchase a house "off the plans" before the construction of a dwelling has commenced, subject to the requirement that they on-sell or let the completed dwelling. An alternative option would be to allow purchases by overseas persons up until 6 months after construction is compete but we do not believe this option aligns with the policy objective to allow overseas persons to purchase residential land where it contributes to increased housing supply.

We also recommend allowing consent for a developer that would undertake development works to support the construction of buildings, and then on sell or let the land. The developer's investment would contribute to the increases in housing. However, the developer would need to do more than just a mere legal subdivision of the land.

E. How to apply the new build test?

Issue: We consider the most effective mechanism to deliver this policy is for the new builds test to operate as criteria for assessment through the screening regime. We have considered the current OIA screening process against the objectives of reducing administration and compliance costs, and supporting increased housing supply. We prefer an option that minimizes additional costs on developers and the OIO.

Option E1: *Consent after screening in all cases*	• Under this option, all overseas persons would be required to apply for consent before purchasing sensitive land that is residential. However, overseas persons could satisfy a simpler test than the existing benefit to New Zealand test in the OIA, recognising the type of sensitive land they are acquiring, and the significance of the Government's policies to increase the supply of residential housing. Investors would need to: i. meet the 'investor test', comprising financial commitment, business experience and acumen, good character, and compliance with certain sections of the Immigration Act; ii. commit to increase the number of dwellings on the land; and iii. commit to on-sell or let the property.

Option E2: *Consent as per Option E1, with a power to pre-approve developers*	• The intention of this option is to provide a pre-approval process for overseas developers looking to engage in a programme of development. Investments by these investors are likely to be of low risk. This would minimise additional costs imposed on developers, which could work against the objective of increasing housing supply. Option E1 would apply in all other cases. • Overseas persons would be eligible to apply for a "standing consent" to make future purchases of sensitive land that is residential. The pre-approval would involve an assessment of many of the same factors, but the approval would allow them to purchase multiple blocks of land without the need to obtain consent in each case. • The pre-approval screening would be subject to similar conditions as a normal consent. In addition, investors would be required to notify the OIO each time they acquire land so that the OIO can monitor the development and on-sale or letting of lots in each case. The pre-approval would be for a limited time. The developer could then apply for a new "standing consent", to cover the next time period. This would only be likely to be granted if the developer had complied with the previous consent.

Experience from Australia: The Australian overseas investment regime also makes available a similar exemption for programmes of land acquisition by developers. There have been criticisms in Australia of how this has operated, with significant proportions of newly built properties being sold to foreigners in some parts of Australia. We do not anticipate similar issues if this option was adopted in New Zealand, as overseas persons would be subject to the requirement that they on-sell or let the property (which is not part of the Australian regime). Any overseas persons wanting to buy the newly built properties would also need to obtain OIO consent.

Preferred – Option E2: On balance, we favour adopting option E2 which requires overseas persons to apply for consent before purchasing sensitive land that is residential on the condition that the number of dwellings will increase, and also provides a process to pre-approve overseas developers to allow them to purchase multiple blocks of land without the need to obtain consent in each case.

We consider option E2 to be the strongest option when assessed against the policy criteria established for this policy:

- *Policy effectiveness*: this approach balances the objective of limiting overseas investment in sensitive land that is residential, and the desire to establish bright lines and support increased housing supply.
- *International obligations*: this option reduces the costs of compliance for overseas persons (e.g. property development companies 25% or more owned or controlled by overseas persons)..
- *Minimizing compliance and administrative costs*: Option E2 would minimise the number of new applications for consent that the OIO would need to consider under the new builds test. This will reduce compliance costs for investors and administration costs for the OIO relative to option E1.

The OIO also has a wide power to impose conditions of consent. In order to ensure that the objectives of the new build exemption are met, we propose that the OIO be required to impose conditions that would ensure that the properties are in fact on sold or let.

F. How to apply the ability to let under the new build test?

Issue: We understand that the policy intention is that the new builds test allows overseas investors to invest in the construction of new residential houses for letting to others. We consider the ability to on-sell to be relatively simple to apply. Letting involves a different set of considerations, which we explore in this section.

In general, we do not anticipate that the option to let a newly built house under the new build test would be used by many established developers. We understand the majority of developers to use a business model based around the construction and sale of properties (though some may seek to use commercial leases for residential properties), with any letting taking place by subsequent purchasers (which could not be overseas persons under the policy). There may be some developers that use commercial leases or licensing arrangements, such as developers of long-term accommodation facilities.

Option F1: *Broad definition of lease, including residential tenancies and commercial leases*	• This option would allow an overseas person granted consent under the new builds test to lease their sensitive land that is residential through a residential tenancy or commercial lease. Commercial leases of residential land are relatively uncommon, as almost all tenancies are made under the Residential Tenancies Act.
Option F2: *Commercial leases only, with a special rule for operating long-term accommodation facilities*	• This option would only allow the overseas person to "let" the underlying sensitive land that is residential, as well as the newly built dwellings, under a commercial lease of at least 3 years. • A special rule for long-term accommodation facilities would apply – these could be operated directly by the overseas person. Operating such a facility is a form of 'letting', though the type of legal interest or licence an occupant has can vary greatly across different facilities. • However, the developer's ownership interest in the land could not be freely traded in an international market, as on-sale (and leases for longer than three years) to an overseas persons would be screened under the OIA.
Option F3: *Require overseas investors who wish to let newly built residential properties to meet the existing criteria for sensitive land by showing 'benefit to New Zealand'*	• Under this option, investors would be required to meet the existing criteria for sensitive land as currently defined in the OIA by showing 'benefit to New Zealand'. Relevant factors would likely include the creation of jobs, the introduction of investment for development purposes, and giving effect to significant Government policies or strategy (in the housing space). If the benefits were sufficient, then the OIO could consider granting consent without a requirement to on-sell the land, allowing the investor to lease or let the land.

Preferred – Option F2: On balance, we favour adopting option F2 which allows a developer to let the developed accommodation under a commercial lease, and also allows developers of long-term accommodation facilities (such as retirement villages, aged care facilities and student accommodation) to operate these directly.

We consider option F2 to be the strongest option when assessed against the policy criteria established for this policy:

- *Policy effectiveness*: Option F2 will prevent an overseas person from assigning a tenancy to a related party, residing in the house themselves or leaving it vacant. It targets the class of investors – large developers – that we understand the test is intended to capture. It also does not impede the broader objective of increasing the supply of residential housing, as it incentivises investment in residential housing and provides for operation of long-term accommodation facilities that people use as primary place of residence.

- *International obligations*: New Zealand's trade obligations in free trade agreements and at the World Trade Organisation will need to be taken into account in designing conditions that apply to commercial leases, such as for long-term accommodation facilities.

- *Minimizing compliance and administrative costs*: Option F2 limits the applicability of this part of the new build test to a relatively narrow class of investments, reducing the number of transactions that would need to be screened. It also creates the largest number of bright lines for developers and limits screening.

III. Role of real estate agents and conveyancers

Property transactions generally involve two types of third-party agent: real estate agents and conveyancers.

- The Real Estates Agent Act 2008 provides the framework for the real estate industry in New Zealand.

- The Lawyers and Conveyancers Act 2006 provides the framework for the conveyancing profession in New Zealand. Conveyancing is the term used to describe the legal work required to transfer the ownership of real estate from one person or entity to another, which also includes the processing of subdivisions, leases and refinancing of mortgages.

We have considered the role these third parties could play in relation to this policy. Options span from imposing no formal obligations to requiring verification or certification. We have evaluated the options against the following criteria.

Criteria:

- **Ensuring compliance with the policy**: for example by checking that a person is entitled to purchase a parcel of sensitive land, and preventing the transaction from occurring if it is not allowed under the screening regime;

- **Minimising the number of land transactions that fail because of the screening regime:** helping ensure that overseas persons do not enter into agreements to purchase sensitive land only to find that the purchase cannot be completed.

G. Role of real estate agents

Issue: Real estate agents are often – but not always – involved at the beginning of a property transaction, finding prospective purchasers and facilitating the signing of agreements to purchase.

Option G1: *No formal obligations*
Option G2: *Require that real estate agents notify prospective purchasers about the screening regime*
Option G3: *Require that real estate agents verify that a property transaction would not be prohibited by the screening regime*

Experience from Australia: Real estate agents have no formal obligations under the Australian overseas screening regime, but they do play an informal role.

Preferred – Option G1: On balance, we favour adopting option G1 which places no formal obligations on real estate agents as part of this process. The informal role that real estate agents will be expected to play by the vendors of a property means this option will still support the objective of ensuring transactions do not fail, and it eliminates the risk that an obligation will be imposed on agents that they are unable to fulfil.

Option G1 does not preclude obligations being imposed on real estate agents subsequently. The Minister of Justice has the power under the Real Estate Agents Act 2008 to amend the practice rules for real estate agents, which impose certain obligations. This would allow, for example, an obligation to be imposed on agents to inform prospective purchasers about the screening regime and how it might apply outside of this legislative process (and after consultation with the industry).

Both options G2 and G3, requiring verification and notification respectively, would support the objectives of *minimizing transactions that fall over because of the screening regime* and *ensuring compliance with the screening regime*. However there are a number of factors which lead us not to favour these options.

- Option G2 – we do not consider that requiring verification from real estate agents is a workable option. Real estate agents are generally engaged by the vendors of a property, not prospective purchasers. This means that, in many instances, real estate agents will not be in a position to verify whether a prospective purchaser is able to buy residential land under the screening regime (especially as a property for sale can attract numerous purchase offers, sometimes entered into with little involvement with the real estate agent). In addition, we are concerned that this option would require real estate agents to verify something that may be outside their area of expertise.

- Option G3 – requiring notification from real estate agents would serve as an opportunity for prospective purchasers to consider whether or not the screening regime would apply to them in relation before they enter into a formal agreement to purchase residential land. There are risks, however, with imposing obligations on real estate agents. For example, there are risks that an obligation may be impossible to comply with in certain circumstances (such as when an offer is received with little involvement from the agent).

H. Role of conveyancers

Issue: Conveyancers are often engaged only after an unconditional agreement has been entered into. The conveyancer may not meet with his or her client to sign transfer documents until a few days before settlement. Not every transaction under the screening regime will involve a conveyancer (for instance, a transfer of shares or establishment or a company to acquire land is unlikely to involve a conveyancer. In addition, a small number of transfers are lodged manually without the involvement of a conveyancer).

Option H1: *Require conveyancers to certify that they have informed the purchaser about the screening regime*	
Option H2: *Require conveyancers to certify that, to the best of their knowledge, that the purchase is not inconsistent with the screening regime*	• Conveyancers would need to certify that the land is not residential and/or the purchaser is not covered by the screening regime. The standard would be 'to the best of their knowledge' and therefore they would not be required to review reliable documentary evidence to verify the assurances given by their client.
Option H3: *Require conveyancers to certify that the purchase is not inconsistent with the screening regime*	• Conveyancers would be required to make enquiries as to the status of the land and purchaser, and would only be able to complete the transaction if they were satisfied. They could not rely on assurances given by their client, but would need to review reliable documentary evidence that established the position.

Experience from Australia: Conveyancers are not required to make any formal certification – but they may face penalties if they proceed with a property transaction knowing that it is in contravention of the screening regime.

Consultation: We have not engaged in any consultation with relevant stakeholders (such as the New Zealand Law Society). This means there is a risk that placing additional obligations on conveyancers will have unintended consequences. This risk varies with the scale of obligations placed on conveyancers.

Agency preferred – Option H1: On balance, we favour adopting option H1, which requires conveyancers to certify that they have informed the purchaser about the screening regime. While not as effective in ensuring compliance with the regime as Option H3, it ensures that the cost of processing land transfers does not increase.

Government preferred – Option H2: On balance, the Government favours adopting option H2 which requires conveyancers to certify that, to the best of their knowledge, that the purchase is not inconsistent with the screening regime.

- *Minimising the number of land transactions that fail because of the screening regime*: None of these options would be effective at achieving the objective of minimising the number of land transactions that fail because of the screening regime. Since conveyancers are often only involved once an unconditional agreement has been entered into, if a problem arises once a conveyancer has been engaged (e.g. the conveyancer discovers the purchaser is unable to purchase the land because of the screening regime) then it is almost certain the transaction will fail. The vendor will have to go back to market and seek a new purchaser.

There are number of different factors that need to be considered when evaluating the three options against the objective of *ensuring compliance with the screening regime.*

- Option H3 – in terms of ensuring compliance with the screening regime, requiring conveyancers to certify that the purchase does not contravene the screening regime would be the most effective. The problem with option H3 is that it would increase the cost of all property transactions – including transactions involving New Zealand citizens and permanent residents. While in the case of individuals this verification may be straight forward[5], this will not be the case where the purchaser is a company or a trust – potentially substantial investigation would be required.

- Option H1 – requiring the conveyancer to certify that they have informed the purchaser would help compliance with the regime from some overseas persons. However, it would not by itself prevent committed foreign investors from buying in contravention of the screening regime. Nevertheless, where a conveyancer was involved, it would eliminate any opportunity for a person in contravention of the screening regime to claim they were unaware of the screening regime (a helpful fact at the enforcement stage, and may also mean that a court is better prepared to impose penalties). It may also persuade more cautious investors to seek further advice to ensure their purchase is compliant. At the same time, it may cause unnecessary concern for those who are not covered by the screening regime (e.g. NZ citizens), as they will need to be informed of the screening regime even though it does not apply to them.

- Option H2 – we anticipate that requiring certification to the best of the conveyancer's knowledge will operate similarly to options H1 or H3, depending on the circumstance. Cautious conveyancers may be unwilling to make this certification without making due enquires about the compliance with the screening regime, meaning it will operate similarly to option H3 (and therefore be costly in some cases). On the other hand, less cautious conveyancers may adopt a "don't ask, don't tell" approach, making no efforts to ascertain the status of the person. In this case, it would operate similarly to option H1.

Section 4 is intentionally omitted.

[5] Even in the case of New Zealand citizens, they may not have a valid passport so may find proving this difficult. A transaction could be delayed while suitable evidence was obtained, even where there was no suggestion that a foreign buyer was involved.

Section 5: Conclusions

What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

The following is a summary of the preferred approach to implement the Government's 100 day commitment to "*ban overseas speculators from buying existing houses."*

Key elements of the new regime

- We propose to bring land categorised as either "residential" or "lifestyle" in the relevant council's District Valuation Roll within the category of sensitive land in the Overseas Investment Act.
- New Zealand and Australian citizens will be exempt from the policy irrespective of where they live. Some Australian permanent residents will also be exempt. All other nationalities will be subject to screening unless they hold a New Zealand residence class visa[6] (this includes permanent residents), have been resident in New Zealand for the past 12 months and lived in New Zealand for more than 183 days during that period.
- As a result of this policy, investors subject to screening will be eligible to purchase sensitive land that is residential when one of the following tests is met:
    - the commitment to reside in New Zealand test;
    - the increased housing on residential land ("new builds") test; or
    - the benefit to New Zealand test.

Test	*Eligibility*	*Conditions of consent*
The commitment to reside in New Zealand test	Demonstrate a commitment to reside in New Zealand, and either: • do not meet the bright line test of actual residence in New Zealand, but meet a test for demonstrating a commitment to reside in New Zealand (defined under a proposed new regulation-making power); or • hold an eligible temporary visa and meet a test for demonstrating a commitment to reside in New Zealand – the eligible visa categories and test will be defined under a proposed new regulation-making power. Applicants are only eligible to purchase a dwelling in which they will live as their home in New Zealand. Also need to satisfy the existing OIA "investor test."	Subject to a condition that they sell the land within twelve months of ceasing to be resident in New Zealand (or their visa expires or is revoked) unless subsequent to the purchase they cease to be an overseas person (for example by becoming a New Zealand citizen).

[6] Australian permanent residents are automatically eligible for a New Zealand residence class visa upon arrival

Test	*Eligibility*	*Conditions of consent*
The increased housing on residential land ("new builds") test	If consent were granted, the investment would result in either: • increased number of dwellings on the relevant site(s), • new or expanded long-term accommodation facilities (including retirement villages, residential care facilities and student accommodation), • development works to support those outcomes (but more than a mere legal subdivision of land) Also need to satisfy the existing OIA "investor test." Developers that are overseas persons are eligible to apply to be pre-approved to make multiple purchases of sensitive land that is residential in the course of their business without needing to have each individual land purchase individually screened.	Subject to an obligation to on-sell or let the developed accommodation or the completed property, • *Houses:* on sell or let under a commercial lease of three years or more. • *Long-term accommodation facilities:* on sell, let under a commercial lease, or operate directly.
The benefit to New Zealand test.	To purchase residential land to be used for a non-residential purpose, the overseas investor will need to demonstrate that the overseas investment will, or is likely to, benefit New Zealand (the existing "benefits test" in the OIA). Also need to satisfy the existing OIA "investor test."	Subject to a condition that the land (or each part of the land) either be: • used for a non-residential purpose, to ensure that the screening regime cannot be circumvented; • sold (e.g. surplus land not needed for the new non-residential development); or • used for new builds for on-sale or letting (to allow for developments with mixed non-residential and residential purposes).

- Where residential land is also sensitive under the OIA for reasons in addition to its residential status (e.g. it borders a public reserve), the land will be screened as per existing policy, and will also be subject to the conditions of consent in last row of the table above. The practical implications of this is that an overseas person would need to meet the tests for the current definition of sensitive land.

The role of real estate agents and conveyancers is discussed in Section 6.

5.2 Summary table of costs and benefits of the preferred approach, compared to taking no action

Affected parties *(identify)*	**Comment**: *nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks*	**Impact** *$m for monetised impacts; H/M/L for non-monetised impacts*	**Evidence certainty**
Regulated parties			
Holders of NZ residence class visas (including Australian permanent residents) that do not meet new bright-line test of actual residence in NZ; and *Holders of certain (yet to be defined) temporary visas*	**Costs –** Only eligible to purchase sensitive land that is residential (but not sensitive for any other reason) in accordance with the commitment to reside in New Zealand test. Will also need to satisfy the existing investor test. Approval to purchase sensitive land that is residential will be subject to certain conditions which the OIO will monitor. Must sell within specific period of time after leaving the country.	Cost of application fee[7] and increased compliance costs. Limitations on ownership rights due to conditions attached to consent.	High
Holders of NZ residence class visas that do not meet the new bright-line test of actual residence in NZ; *All temporary visa holders;* and *All overseas buyers.*	**Costs –** Unable to purchase sensitive land that is residential. Only eligible to purchase residential land in accordance with the increased housing on residential land test or the benefit test. Will also need to satisfy the existing investor test. For the increased housing on residential land test, approval to purchase/develop will be subject to certain conditions which the OIO will monitor. Must on-sell new residential development unless meet criteria for commercial leases, or long-term accommodation facilities. Regular overseas developers will be able to be pre-approved to make multiple purchases of residential land.	Cost of application fee and increased compliance costs. Limitations on ownership rights due to conditions attached to consent.	High
New Zealand & Australian citizens; and *Holders of NZ residence class visas that meet the new bright-line test of actual residence in NZ*	No change in ability to purchase residential land.	n/a	n/a

[7] The application fee will be determined by the OIO as part of the establishment of a cost recovery model in 2019/20.

Regulators			
Overseas Investment Office	**Costs –** Significant increase in volume of transactions expected. Will also have expanded role around compliance, monitoring and enforcement.	Crown funding of approx. $3.0m in first year, rising to $10.2m in subsequent years. Will fund in part through application fees from 2019/20.	High
Wider stakeholders			
New Zealand Public	**Benefits –** Expect less upward pressure on house prices during periods when the housing market is out of equilibrium, and foreign capital would otherwise flow into New Zealand seeking to buy houses. Other potential benefits could include an increase in the stock of new residential property.	Unclear	Low
Other parties			
Real Estate agents	**Costs –** No formal obligations, expect will play an informal role in notifying prospective buyers about the screening regime.	Increased compliance costs.	Medium
Conveyancers Note: Government's preferred option	**Costs –** Will need to certify that, to the best of their knowledge, the purchase is not inconsistent with screening regime. This may involve requesting information to verify the visa status of prospective buyers.	Increased obligations and compliance costs.	High
MBIE/Immigration NZ	**Costs –** The OIO, conveyancers and/or prospective buyers may request information from Immigration NZ to confirm their client's, or their own visa status and number of days spent in New Zealand.	$0.5m one-off cost to modify systems to enable parties to access information.	High

5.3 What other impacts is this approach likely to have?

n/a

5.4 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

n/a

Section 6: Implementation and operation

6.1 How will the new arrangements work in practice?

Giving effect to the preferred option

Legislative process: The preferred option will be given effect through amendments to the Overseas Investment Act 2005. A Select Committee process will commence in late December, with hearings commencing in late January 2018.

Commencement: The intended commencement date for this legislation is ten days after it receives Royal assent. The new screening requirements will not have a retrospective effect.

Education: The OIO will undertake to provide education for real estate agents and conveyancers on the new regime and their obligations under the regime, as this will be critical to ensure compliance. In addition, it is recommended that others involved in land transactions, including banks, financial advisors, accountants and immigration advisors are educated on the changes. Lastly, it is important that the public is aware of the new requirements.

Role of the Overseas Investment Office

Once implemented, the OIO will hold the primary responsibility for the ongoing operation and enforcement of the new arrangements. The revised regime will be a significant change to the existing OIO screening and monitoring regime with respect to sensitive land.

Overseas buyers will be eligible to seek approval from the OIO to purchase land, where they meet criteria in certain circumstances. Approximately 150 applications are screened per year, under the current regime. The estimated volume of transactions under the revised regime is very uncertain and currently estimated at approximately 4,700 per year. The OIO will need to update their current IT system to accommodate the increased volume of applications and to improve functionality. The OIO will receive additional resourcing to undertake this expanded role. There are three key components of this expanded role:

Detailed screening regime: All applications will be screened to ensure that overseas persons are in fact eligible to purchase the sensitive land. Screening will, to the extent this is practical, seek to verify the land is sensitive only because it is residential, and not sensitive for any other reason – for example if it were 2,000m^2 or larger and adjacent to the foreshore (this can be a complex exercise).

Compliance and monitoring system: All overseas buyers granted consent will have conditions attached to that consent. This will require the OIO to undertake activities to ensure compliance.

- *Commitment to reside in New Zealand:* Checks will be needed to ensure that the house is lived in (such as checks of utility bills) and that the land is on-sold when the person leaves.
- *Increased housing on residential land:* The OIO will need to monitor progress on the new build (e.g. getting resource/building consent, and progress on the building of the house(s)) to ensure land banking does not occur, that the houses are built in a timely manner, and that they are on-sold or leased upon completion.

Targeted monitoring will need to be carried out to check that transactions do not breach the screening regime and any certification requirements are being properly complied with. If the screening regime is to be seen as robust and effective, surveillance will also need to be undertaken to detect avoidance schemes (such as the use of associates) to get around the screening regime.

Enforcement regime: In order for the policy to be successful, the OIO must have the tools available to investigate possible breaches of the screening regime. The types of things that will need to be investigated include checking situations where people do not get consent when needed, do not comply with conditions imposed on consent, mislead the OIO or adopt avoidance mechanisms to get around the Act. Engagement with overseas persons and their advisors will be required. The fact that the people will often be overseas, and will often involve exchanges with people in a range of languages, increases the time and costs involved. In addition, the OIO must have the ability to take legal action against overseas persons, otherwise the enforcement aspect of the regime will be seen as weak.

Role of other parties

Real estate agents and conveyancers will both play a role in implementing the policy. While real estate agents will not have any formal obligations under this policy, we expect they will play an informal role in ensuring prospective buyers are aware of the screening regime.

In accordance with the Government's preferred option, conveyancers will have formal obligations under this policy, which will require them to certify that, to the best of their knowledge, the purchase is not inconsistent with the screening regime.

It is proposed that a breach of the requirement to certify the purchase will be an offence. The alternative, that there be no penalty or that other general offence provisions apply (including section 45 of the OIA, and potentially section 107 of the Crimes Act 1961), would be uncertain and unsatisfactory.

It is also possible that the Registrar-General of Land might, in future, impose this certification as an additional statutory requirement for the transfer instrument. The effect of this is that the conveyancer would be required to formally confirm, in the course of the transaction, that the requirement to certify had been met.

Immigration NZ will play a role in providing information about visa status and/or time spent in New Zealand to the OIO, conveyancers and/or prospective buyers.

6.2 What are the implementation risks?

As noted, this analysis has been prepared under very tight timeframes. The Government has also indicated that it wants this regime to come into effect relatively quickly. As a result, there are a number of implementation risks, these include:

- some of the design choices may be sub-optimal or have unintended consequences;
- the OIO will only have limited time to operationalize the policy (this will involve recruiting and training staff, designing application forms and systems, and upgrading IT systems); and
- limited time to educate real estate agents, conveyancers and the general public.

Where possible, the OIO will seek to mitigate some of these risks by commencing the work required to operationalize the policy as soon as possible, upon receiving funding. They will also seek to begin the education campaign for the revised regime once the Bill has had its final reading in the House.

The OIO has calculated its resourcing requirements based on estimates for the volume of applications it expects under the revised regime. While there is a degree of tolerance around these estimates, if the volume of applications significantly exceeds this, there is a risk that the levels of resourcing provided for will not be sufficient to operate the regime in an efficient and effective manner. This would be addressed through a review of the resourcing.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

The OIO will monitor the revised regime through the applications it receives, the consents granted, as well as information it gathers through enhanced compliance, monitoring and enforcement functions.

One of the challenges is that there is no mechanism for the OIO to collect information about transactions involving overseas persons purchasing sensitive land that were not captured by the screening regime (either due to avoidance or because the investor fits within an exemption). Enhancing the compliance and enforcement functions therefore will be one mechanism which the OIO can use to monitor whether the revised regime is having its intended effect with respect to residential land.

One of the aims of this policy is to not impede the broader objective of increasing the supply of residential property. By monitoring compliance with consents granted on the basis of increasing the supply of housing on residential land, the OIO will collect information about the progression of the developments, but will also be able to collect information about the impact of this policy on the stock of housing and long-term accommodation facilities.

It will be harder to evaluate, particularly in the short term, whether there will be broader system-level impacts from this policy around moderating foreign capital flows into the housing markets during periods when the housing market is out of equilibrium.

7.2 When and how will the new arrangements be reviewed?

The Government has committed to undertaking a broader review of New Zealand's overseas investment regime. While there are no plans for review of this policy currently, it is expected that this is something that will be considered as part of the broader work. Once this revised regime is implemented, an assessment of the most appropriate time to review the policy will be made. It is likely that this would occur earlier if the impacts of the regime were materially different to what is anticipated.