

# Regulatory Impact Statement: Overseas investment screening settings for build-to-rent developments

## Coversheet

| Purpose of Document   |  |
|---|--|
| Decision sought:  | <i>How to amend current settings in the Overseas Investment Act 2005 for screening investment on residential land, particularly as they pertain to build-to-rent developments and other large-scale housing.</i> |
| Advising agencies:  | <i>The Treasury</i>  |
| Proposing Ministers:  | <i>Hon Chris Bishop</i>  |
| Date finalised:   | Friday 8 February 2024   |
| Problem Definition  |  |
| <p>Build-to-rent (BTR) has the potential to provide additional supply of quality rental housing in New Zealand. However, developers face challenges sourcing capital at the scale required to finance large-scale developments of this nature in New Zealand. Overseas investment has the potential to fill some of this gap but has been limited to date.</p> <p>The Overseas Investment Act 2005 (the Act) was amended in 2018 to classify residential land as a “sensitive asset” and impose restrictions on foreign ownership of residential land (these changes are also known as “the foreign buyers ban”). The primary intent to restrict foreign ownership of New Zealand housing was balanced against the need to enable investment in housing supply. For this reason, pathways were introduced to enable investors to purchase land if they met certain criteria. Stakeholders have raised concerns that the Act presents significant barriers to the growth of the BTR sector. This particularly regards uncertainty around the necessary conditions for consent to sell BTR assets to overseas investors under the Act, which restricts divestment opportunities for developers. In addition, the pathways are likely to be limiting valuable investment on residential land more generally, as a result of the costs and uncertainty they impose on applicants.</p> |  |
| Executive Summary   |  |
| <p>To support its objectives to improve housing supply and the rental market in New Zealand, the Government made a 100-day commitment to “take policy decisions to amend the Overseas Investment Act 2005 to make it easier for build-to-rent housing to be developed in New Zealand” [CAB-23-MIN-0468].</p> <p><i>The BTR sector has the potential to increase housing supply</i></p> <p>BTR refers to medium-to-large scale residential housing developments that are expressly built to provide long-term rental accommodation and are privately owned, typically by institutional investors. It is a newer housing model in New Zealand with potential to provide additional supply of quality rentals, but developers face challenges sourcing capital at the scale required to finance large-scale developments of this nature.</p>   |  |

*Current settings in the Act are limiting growth in the BTR sector*

The Overseas Investment Act 2005 (the Act) was amended in 2018 to classify residential land as a “sensitive asset” (“the foreign buyers ban”), imposing broad screening requirements and restrictions on foreign ownership of residential land. These broadly restrict foreigners from purchasing residential land in New Zealand unless they intend to:

- live in the home as their primary residence
- build additional housing supply
- operate a non-residential business or use housing incidentally to a business purpose, or
- provide another benefit to New Zealand as determined by Ministers.

In these cases, foreigners are required to apply for a consent from the regulator, Land Information New Zealand – Toitu te Whenua (LINZ), through one of the pathways provided within the Act.

Investment that increases housing supply, including for construction of new BTR developments, has a bespoke consent pathway (the ‘increased housing test’) that is intended to streamline investment. The Act places heavier restrictions on foreigners’ ability to buy existing housing stock. To do so, investors must apply for consent under the ‘benefit to New Zealand’ test, which gives discretion to Ministers to determine whether an investment provides a sufficient benefit to New Zealand.

Industry stakeholders have identified several key issues with the current treatment of BTR assets under the Act that create uncertainty for investors and present barriers to the growth of the BTR sector. These concerns include that:

- drafting in places creates legal ambiguity and perceived inconsistencies between the treatment of BTR assets and other similar asset types
- investors lack confidence that they will be able to obtain a consent under the benefit to New Zealand test to purchase existing BTR assets. As the BTR investment model requires confidence in the ability to liquidate assets as part of any exit strategy or if the investor becomes fiscally distressed, this disincentivises BTR development.

*Several options were considered to address the problem*

Several options were considered to address the above concerns:

|                             |  |
|-----------------------------|--|
| <b>Option 1</b>             | Technical changes to clarify existing pathways   |
| <b>Option 2</b>             | A new consent pathway that simplifies the purchase of existing BTR assets  |
| <b>Option 3</b>             | An exemption for the development and purchase of BTR assets  |
| <b>Option 4 (preferred)</b> | As for option 3, but broadening the exemption to also include purchases of existing large-scale housing developments such as build-to-sell apartments, long-term accommodation (retirement villages and student accommodation, and rent-to-buy and shared-equity arrangements) |

These options were assessed based on their ability to be effective at reducing investor uncertainty in BTR developments, providing for a coherent regulatory regime, and managing risk appropriately. The following were also taken into account:

- The Coalition Government’s Ongoing Decision-Making Principle to improve housing affordability, and
- the Coalition Agreement between National and New Zealand First which commits to retain ‘the foreign buyer’s residential property ban’.

*A broad-based exemption is the preferred option to support investment BTR investment*

The preferred option is a broad-based exemption that applies to existing BTR and other large-scale housing assets (defined by developments with 20 or more dwellings). This option addresses both substantial and technical issues arising from the treatment of BTR within the Act, reduces cost and complexity for investors, and minimises the risks of avoidance and potential market distortions. This approach has the added benefit of enabling investment in a broader range of housing models.

To ensure regulatory coherence and reduce complexity within the Act, the following design features for the exemption are preferred:

- converting the pathway for 1-19 new dwellings into an exemption, with a requirement to on sell these within a year of completion
- converting the commercial and other non-residential purpose pathways to an exemption
- requiring that the land be used for the defined purpose within a ‘reasonable’ time period, and
- introducing a notification requirement that would require overseas investors to fill out an online form advising the regulator they have relied on an exemption to purchase land, and, at a high-level, their intentions for the land.

*This option is expected to have net-benefits*

This policy will ease costs of doing business and improve investor confidence for BTR and other housing developers. This is expected to result in a more responsive housing market.

The magnitude of the benefits that will result from this policy are unclear as the scale of the supply response is difficult to predict, given wider factors that influence investment. However, regardless of magnitude, it is reasonable to expect that changes will have a net positive impact.

### **Limitations and Constraints on Analysis**

This proposal was designed to deliver the Coalition Government’s 100-day commitment to “take policy decisions to amend the Overseas Investment Act 2005 to make it easier for build-to-rent housing to be developed in New Zealand”.

As a result of the scope and pace of this commitment, changes that would require a first principles review, or substantial reform of the Act were not considered. Analysis was limited to:

- Options that included changes in the Overseas Investment Act 2005, without considering the impacts of other legislation, or policy that may affect investment in the BTR sector (such as tax settings).
- Options that broadly maintained consistency with the overarching intent of the residential land restrictions (i.e., the “foreign buyers ban”).
- Investments that are sensitive only because they take place on residential land. The Treasury did not investigate changes to screening of investment that is sensitive for another reason (such as significant business assets or investment on farmland).

The desire to introduce legislation at pace also resulted in some limitations and constraints for the overall policy process. Officials were not able to undertake consultation to get a better evidence base on the impact of screening settings on investment in BTR or other housing developments. Detailed analysis of the current size and state of each housing subsector to which these reforms pertain was also limited. This lack of information, and the wide range of factors that impact investment on housing, makes it difficult to assess the extent to which changes will result in additional housing supply.

The views of the public regarding this proposal are also unclear, although submissions on the 2018 reforms can provide an indication. Submitters on those reforms were roughly split in support. A number of submitters (including industry groups) raised concerns with certain aspects of the changes they considered could have a deleterious effect on investment and housing affordability which options considered in this paper now aim to address.

There are related policy workstreams being undertaken by the Ministry of Housing and Urban Development to consider options beyond the Act that would (if progressed) target broader factors that influence growth in the BTR sector.

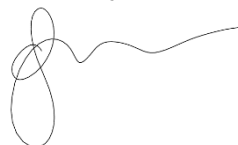
**Responsible Manager(s) (completed by relevant manager)**

*Conor McBride*

*Manager*

*International*

*Treasury*



*8 February 2024*

## Section 1: Diagnosing the policy problem

### ***What is the context behind the policy problem and how is the status quo expected to develop?***

*New Zealand is facing acute housing shortages*

1. New Zealand has one of the least affordable housing markets among advanced economies due to a persistent undersupply of housing<sup>1</sup>. House prices and rents have increased at unsustainable rates, with one in four New Zealand households now spending over 40% of their income on rent<sup>2</sup>.
2. Unaffordable housing has far-reaching social and economic consequences, including overcrowding, homelessness, poorer health outcomes and lower living standards. In addition to facing high rental costs, renters are more likely to experience poor quality housing than owner-occupiers in New Zealand. These issues disproportionately impact Māori and Pasifika households, who are less likely to own a home than people of European ethnicity<sup>3</sup>.
3. To increase housing supply and improve the rental market, the Government has made a 100-day commitment to “take policy decisions to amend the Overseas Investment Act 2005 to make it easier for build-to-rent housing to be developed in New Zealand” [CAB CAB-23-MIN-0468 refers].

*The BTR sector can provide additional supply of quality housing, but is still nascent in New Zealand*

4. BTR typically refers to medium-to-large scale residential housing developments that are expressly built to provide long-term rental accommodation.
5. The BTR sector has become established in some overseas jurisdictions, particularly the UK. There is growing interest in this type of development in New Zealand, but the market is still nascent, and developments to date have been smaller in scale. There are currently 22 recorded developments, most of which are in Auckland.
6. BTR involves a different financial model to traditional (i.e., build-to-sell) housing developments, attracting investors with long-term horizons for stable returns on patient capital. With BTR, the return takes the form of ongoing rental income rather than house-sales, as well as capital appreciation over time. The purpose-built, long-term nature of these investment models means BTR developments are often of better quality and provide more housing security for renters than housing provided by small-scale landlords.
7. Domestic developers are interested in supporting BTR. Reflecting broader economic challenges such as New Zealand’s macro imbalances, developers seek foreign capital to finance such developments. However, New Zealand’s inward foreign direct investment stock is low compared to other small open economies and our international connectivity more broadly is also low.
8. According to available data, there are currently no overseas-owned BTR developments in New Zealand. Since 2018, only four applications have been for a consent to

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<sup>1</sup>OECD (2020), “How’s Life? 2020: Measuring Well-being”. OECD Publishing, Paris; New Zealand Infrastructure Commission (2022), “The decline of housing supply in New Zealand: Why it happened and how to reverse it”. Wellington: New Zealand Infrastructure Commission / Te Waihangā. Te Waihangā Research Insights series

<sup>2</sup>[Housing affordability more challenging for renters than homeowners | Stats NZ](#)

<sup>3</sup>[Wai 2750, 3.1.318\(d\).pdf \(justice.govt.nz\)](#)

construct BTR developments under the Act, most of which are from New Zealand-based construction companies that are classified as an overseas investor due to having international shareholders. All of these applications have been approved, although construction has not yet commenced.

#### *Residential land under the Act*

9. The purpose of the Act acknowledges that it is a privilege to own or control sensitive New Zealand assets. The Act provides regulatory tools to ensure that foreign ownership of sensitive assets is only enabled when it provides a benefit to New Zealand.
10. In 2018, the Act was amended to classify residential land as a “sensitive asset”. This introduced broad restrictions and screening requirements on residential land transactions by overseas persons (OPs). Prior to 2018, residential land was only subject to investment screening if the land was valued at over \$100 million or if the land was otherwise sensitive under the Act (such as developments in coastal areas).
11. A key policy objective of these amendments was to restrict foreign purchases of existing housing stock, while providing pathways for investors who wished to purchase residential land to develop new housing or other productive purposes.
12. As a result, overseas persons cannot generally purchase residential land or housing unless they intend to:
  - a) live in the housing as their main home (“commitment to reside in New Zealand test” or “one home to live” in pathway)<sup>4</sup>
  - b) build additional housing supply, such as a new apartment building (“increased housing test”)<sup>5</sup>
  - c) use land for a non-residential purpose, such as to operate a supermarket (“non-residential use test”)<sup>6</sup>
  - d) use housing incidentally only to support a non-residential business purpose, such as for staff accommodation (“incidental residential use test”)<sup>7</sup>, or
  - e) provide another benefit to New Zealand as determined by Ministers, comparing against the current use of the land (“benefit to New Zealand test”)<sup>8</sup>.
13. To purchase land for one of these purposes, an OP must apply for consent from LINZ. Applications incur fees (ranges provided below) and consents impose specified conditions to ensure that investors do not use the land for another unintended purpose.
14. The bulk of applications on residential land come from overseas investors who wish to purchase a home to live in (over 400 applications in calendar year 2023). Few applications are made through the other bespoke consent pathways on residential land, as set out in the following table.

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<sup>4</sup> Schedule 2, Clause 5

<sup>5</sup> Schedule 2, Clause 11

<sup>6</sup> Schedule 2, Clause 13

<sup>7</sup> Schedule 2, Clause 14

<sup>8</sup> Part 2, Clauses 16A and 16B

Yearly consent activity\* under the increased housing, non-residential and incidental residential tests:

|             | Increased housing test | Non-residential test | Incidental residential test |
|-------------|------------------------|----------------------|-----------------------------|
| <b>2019</b> | 18                     | 7                    | 2                           |
| <b>2020</b> | 11                     | 3                    | 1                           |
| <b>2021</b> | 20                     | 10                   | 5                           |
| <b>2022</b> | 32                     | 12                   | 3                           |
| <b>2023</b> | 19                     | 10                   | 5                           |

\*Consent activity refers to both new consent applications, and notifications under existing “standing consents” (see footnote 11)

### *BTR pathways under the Act*

15. There are two main ways BTR developments can obtain consent under the Act:
  - a) the increased housing test, for new developments on residential land, and
  - b) the benefit to New Zealand test, for purchase of existing BTR assets, or developments on land that is sensitive for an additional reason (such as farmland).
16. The pathway used will depend on the plans of the investor<sup>9</sup>.

### *Building a new BTR development – the increased housing pathway:*

17. Investments that increase housing on residential land, including through BTR developments, have a bespoke pathway to consent under “the increased housing test”.
18. To obtain consent under this pathway, investors primarily need to demonstrate that they will increase the number of residential dwellings on the land (including an increase of one dwelling). The consent is also typically conditional on the investor divesting interests in the property within a specified time period following completion of development (explained below) and not occupying the property themselves.
19. The pathway does not experience high volumes – the pathway was used for just 19 developments 2023<sup>10</sup>.
20. Application fees for this pathway (as well as the other bespoke residential land consent pathways above) are \$35,000 – this does not include additional costs such as legal fees. The total timeframe for an application to be assessed under the increased housing pathway is set in regulations and is currently 55 working days, with most applications decided within this time.

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<sup>9</sup> For the purposes of this proposal, we have assumed that the majority of BTR developments are on land that is residential only (i.e. urban, as opposed to greenfield development).

<sup>10</sup> This includes new consent applications (five) and 12 notifications under existing “standing consents”. A standing consent is offered to trusted investors in some circumstances, enabling them to use an existing consent for further purchases as long as they fall into the scope of the original consent and notify the Regulator of the transaction. New activity under a standing consent is still subject to a notification fee and conditions of the original consent

### *Technical issues in the on-sale exemption*

21. The increased housing test imposes a condition that investors divest their interest in the land after completing the development (the “on-sale requirement”). However, an exemption to this rule was provided for “large developments with shared-equity, rent-to-buy and rental arrangements” including BTR developments<sup>11</sup>. To be eligible for this exemption, BTR investors need to build at least 20 new dwellings, or the on-sale condition applies.
22. Some stakeholders have raised concerns with wording in the Act regarding the exemption, which they consider ambiguous and contributing to legal uncertainty for investors. These concerns include a requirement for investors to be “in the business of” providing residential dwellings to be eligible for the on-sale exemption<sup>12</sup>, which is not required of long-term accommodation facilities (retirement villages and student accommodation)<sup>13</sup>. This creates some uncertainty as to whether BTR investors require previous experience in housing development to meet criteria<sup>14</sup>.

### *Purchasing an established BTR development – the benefit to New Zealand pathway:*

23. While the increased housing test imposes relatively few requirements on investors seeking to develop new housing, the Act intentionally makes investment in existing housing stock more difficult. An overseas person looking to purchase existing housing assets (for example, an existing BTR facility) on land that is residential but not otherwise sensitive could only apply for consent under the ‘benefit to New Zealand’ test.
24. This benefit to New Zealand test is relatively onerous and gives significant discretion to Ministers in judging whether an investment meets the criteria, which limits applicants’ ability to know in advance whether they are likely to be successful. The test requires Ministers to be satisfied the investment will provide benefit to New Zealand, as assessed against seven high-level factors, and after considering a counterfactual comparing the likely result of the investment against the existing use of the land. The regulator and Ministers have 100 working days to make this decision.
25. The Act explicitly includes “reduced risk of illiquid assets” as an example of where an investment could result in economic benefits to New Zealand<sup>15</sup>. The current Ministerial Directive Letter recognises that BTR developments could rely on this factor<sup>16</sup>. However, developments take a number of years to plan and complete, and developers cannot be certain that Ministers’ views regarding the sale of assets to overseas investors will remain consistent during this time. This risk around the market for divestment makes the initial investment in developments less attractive.
26. This pathway receives low volumes of applications for residential development – in 2023, just five applications were made under the benefit to New Zealand test for residential development. To date, no applications to purchase BTR assets have been made under this pathway.

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<sup>11</sup> Schedule 2, Cl 20. Similar issues arise in the wording under the benefit to New Zealand test (see Clause 19 (2) row 7)

<sup>12</sup> Clause 20, (2) (c)

<sup>13</sup> Long-term accommodation facilities have a similar exemption in Clause 11 (2) (a)

<sup>14</sup> The Regulator has sought to clarify through Guidance that this does not require investors to already have an established BTR business or to have completed a BTR development, however, some stakeholders continue to report uncertainty absent of legislative change <[Build-to-rent developments under the Overseas Investment Act 2005 \(linz.govt.nz\)](https://www.lincoln.govt.nz/build-to-rent-developments-under-the-overseas-investment-act-2005)>

<sup>15</sup> Section 17 (1) (a)

<sup>16</sup> Ministerial Directive Letter, 24 November 2021, paragraphs 16-20.



## What is the policy problem or opportunity?

### *Challenges with the Act*

27. Although the Act seeks to enable investment in developments that increase housing supply, a number of issues with the current treatment of BTR developments under the Act have been identified, including:
- a) Lack of certainty as to whether consents for new developments will be granted, resulting from unclear legal wording in the existing consent increased housing test
  - b) Lack of certainty as to whether consents will be granted to purchase existing housing assets, owing to the significant level of discretion involved in the benefit to New Zealand test, which limits exit strategies for developers
  - c) The broad design of the restrictions, including the need to obtain a consent at discretion of Ministers to purchase land for new and existing BTR developments. These screening requirements are generally much more onerous than in other jurisdictions, such as Australia.
28. Together these issues create uncertainty as to whether a transaction is likely to be consented under the Act, increase costs and potential delays for developers, and may make some projects non-viable.

### *Restrictions on purchasing established developments limit divestment opportunities*

29. The restriction on purchasing existing dwellings is the most significant constraint on the sector as prospective investors in new developments will consider their ability to divest assets, including to overseas purchasers, as part of their investment strategy. To date no BTR investor has attempted to obtain a consent through the benefit to New Zealand pathway.
30. Applications are also costly – currently the application fees from LINZ range from \$68,000-\$139,000 for a benefit to New Zealand application. This is on top of other costs such as legal and consultant fees<sup>17</sup>.
31. The BTR investment model requires confidence in the ability to liquidate the asset as part of any exit strategy or if the investor becomes fiscally distressed. Under current rules, an investor in BTR must either:
- a) sell to a domestic investor – but New Zealand’s low levels of domestic capital presents a barrier to this (thereby reducing asset prices), or
  - b) sell to an overseas investor – in which case the Act’s onerous benefit to New Zealand test applies. Stakeholders report that they are not confident that potential buyers would obtain consent, without which they risk being left with stranded assets, creating financial risks for the owner.
32. Removing these impediments has the potential to introduce positive competition into the rental market and attract capital for developers to construct more large-scale developments that add to New Zealand’s housing supply and support affordable rental markets.

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<sup>17</sup> By comparison, to lodge a consent to develop new housing on residential land costs around \$35,500 (i.e. under the increased housing test). <https://www.linz.govt.nz/guidance/overseas-investment/fees-and-penalties/overseas-investment-fees-and-penalties-schedule#residential>

33. Without changes to these settings, the BTR sector will likely struggle to attract investment at the scale needed to build large-scale development. The BTR sector can be expected to continue to develop, but at a smaller scale and pace than if these barriers were addressed.

*But the scale of potential impact is difficult to predict*

34. It is difficult to predict the extent to which the sector would develop if these barriers were removed, as there is limited information on the extent to which the Act influences investor behaviour. Broader factors impact New Zealand's investment attractiveness for BTR, including the emerging nature of the sector, lower margins for returns compared with for-sale housing developments, and wider challenges that impede New Zealand's international competitiveness.
35. Prior to the 2018 reforms, when there were few impediments from the Act, there were very few BTR developments in New Zealand as well. However other regulatory barriers – in the form of restrictive district plans – existed at this time and have since been reduced. This particularly includes the Auckland Unitary Plan, which has progressively become operative since 2016 and makes it easier to build large scale developments.

*There are opportunities to support housing development more broadly*

36. In considering opportunities to streamline the treatment of BTR under the Act, there may be opportunities to better reflect the purpose of the increased housing pathway and support housing development more broadly. In addition to BTR, current settings under the Act are a barrier to investment in all housing sectors that are intended to be enabled by the increased housing pathway, including large-scale housing (including apartments), long term accommodation, key worker accommodation, and smaller developments.
37. For example, one sector covered by many of the same provisions in the Act as BTR, and which may have similar capital needs, is long term accommodation. Long term accommodation includes retirement villages and student accommodation. With an ageing population, and limited alternatives to housing for older people, reducing the impediments to investment in this sector is particularly important.

**What objectives are sought in relation to the policy problem?**

38. The primary objective is that barriers posed by the Act are substantially reduced or removed for BTR investments, where these do not substantially increase risk, undermine regulatory coherence, or are likely to have unintended consequences.
39. The following objectives were also relevant in developing criteria and identifying options:
- a) The Coalition Government's Ongoing Decision-Making Principle to improve housing affordability, and
  - b) the Coalition Agreement between National and New Zealand First which commits to retain 'the foreign buyer's residential property ban'.

**Section 2: Deciding upon an option to address the policy problem**

**What criteria will be used to compare options to the status quo?**

40. This paper considers options to address the following key issues as evaluated against the following criteria:

|   |  |
|---|--|
| <b>Policy effectiveness</b>             | The policy is effective in reducing investor uncertainty in BTR development, reduces regulation costs for investors, and supports desired housing market outcomes. |
| <b>Regulatory coherence</b>             | The policy minimises complexity and inconsistencies within the Act to ensure attractiveness to investors and avoid market distortions.                             |
| <b>Risk management / implementation</b> | The policy minimises the risk of avoidance and unintended consequences and is simple for the regulator to implement and administer                                 |

**What scope will options be considered within?**

41. Changes to the Act were considered that:
- a) Enable BTR developments,
  - b) Enable other investments where these are necessary to provide for a coherent regulatory regime and can support the Government’s housing objectives,
  - c) Maintain treatment of residential land as a sensitive asset (i.e. are broadly consistent with the “foreign buyers ban”).
42. Changes to other regulatory regimes were not considered, nor were broader changes to the Act that would involve substantial reform, changes to land that is sensitive for reasons other than being residential land, or a first principles review of the Act. Options were identified and designed with the aim of maintaining consistency with the intent of the residential land restrictions (i.e., the “foreign buyers ban”).

## High Level Options Analysis

43. This section outlines the high-level options that were considered. These are:

Option 1: Technical changes to the existing increased housing test and benefit to New Zealand test

Option 2: A new streamlined consent pathway for the purchase of existing BTR assets

Option 3: An exemption for the development of new and purchase of existing BTR assets

Option 4: An exemption for the development of new, and purchase of existing, large scale housing developments (developments with 20+ dwellings).

### Option 1 – Technical changes to the existing increased housing test

44. Technical changes to address inconsistencies and problematic wording within existing pathways could improve investor confidence by clarifying consent requirements and reducing legal ambiguities within the Act.
45. This option would require the least drafting changes and would involve minor and technical changes to the increased housing and benefit to New Zealand test. For example, by removing the requirement that Ministers need to be satisfied the investor is “in the business of” creating dwellings under the on-sale exemption to the increased housing test (CI 20) and the residential land outcome under the benefit to New Zealand test (CI 19).

### Option 2 – A new streamlined consent pathway for the purchase of existing BTR assets

46. A new consent pathway, similar to the increased housing test, could be created to enable overseas investors to obtain existing BTR assets, without going through the benefit to New Zealand test.
47. A new consent pathway would establish a consent process that explicitly enables purchases of existing BTR assets. Similar to the existing increased housing test, investors would apply to the regulator if they wished to purchase land with intention of building a new BTR development or purchasing an existing one. They would be assessed on the likelihood of their compliance, have conditions placed on any consent granted (that would then be monitored) and the relevant Minister would be the ultimate decision-maker on whether the consent is granted.

### Options 3 and 4 – Exemptions

48. These options would introduce exemptions to exclude BTR from screening on residential land (unless otherwise required as a Significant Business Asset<sup>18</sup> under National Security and Public Order screening<sup>19</sup>). If purchasing a new or existing BTR

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<sup>18</sup> For overseas investments over \$100 million, investors are required to meet the “investor test” (see Part 2, CI 13 and 18B of the Act). This primarily seeks to ensure investors are suitable to own or control sensitive assets (for example, by requiring investors to explain their history if they have previous convictions in New Zealand). While this test is likely to capture larger-scale developments, the “investor test” consent process involves relatively few requirements and is standard for all large overseas investments. It is not in the scope of this paper to review the investor test.

<sup>19</sup> The National Security and Public Order regime enables Ministers to call in transactions in a strategically important business asset (such as an airport, telecommunications infrastructure, or bank) for an assessment of whether it poses a significant risk to New Zealand’s national security or public order, even where a transaction would not normally require an overseas investment consent. There is a high threshold for taking risk management action.

development, an investor would not need to seek a consent. There are a number of existing exemptions in the Act at present. Option 3 is a narrow exemption that only provides for BTR investments. As is outlined in the analysis section below, this would have a number of significant drawbacks.

49. Option 4 is a broader exemption that would apply to all large-scale housing, as defined by a 20 dwelling minimum. In addition to BTR, this would enable investment in the long-term accommodation sector (including retirement villages and student accommodation) and apartments for sale.

## Summary of high-level options analysis

|   | <i>Status Quo</i> | <b>Option 1 – Technical changes to existing pathways</b>   | <b>Option 2 - New streamlined consent pathway for the purchase of existing BTR assets</b> | <b>Option 3 - An exemption for the development of new and purchase of existing BTR assets</b>                       | <b>Option 4 - An exemption for the development of new, and purchase of existing, large scale housing developments.<br/>(preferred)</b>  |
|---|-------------------|--|---|---|---|
| <b>Policy effectiveness</b>             | 0                 | 0 to +<br>Would clarify some sources of legal uncertainty, but unlikely to have a meaningful impact as only clarifies current pathway. | +   | ++  | ++<br>Same as 3 generally, but would also promote investment in other sectors, particularly long-term accommodation.  |
| <b>Regulatory coherence</b>             | 0                 | 0 to +<br>Minor improvement over status quo.   | -   | --  | +<br>Aligns the treatment of a wide range of assets and better reflects intention of legislation. Would likely allow for substantial simplification of the relevant parts of the Act. |
| <b>Risk management / implementation</b> | 0                 | 0<br>Same as status quo.   | 0   | --  | + / -<br>Mixed effects. Some risk of unintended consequences, the management of which depends on design decisions. Low implementation costs.  |
| <b>Overall assessment</b>               | 0                 | Does not meet the criteria, primarily owing to a very limited impact on policy effectiveness.  | Likely to have moderate positive net-benefits providing complexity could be managed.      | Not recommended – positive policy effectiveness would be outweighed by a lack of coherence and an increase in risk. | Preferred option – likely to be highly effective with some uncertainty regarding risk.  |

### Example key for qualitative judgements:

|     |  |    |   |
|-----|--|----|---|
| ++  | much better than doing nothing/the status quo/counterfactual | 0  | about the same as doing nothing/the status quo/counterfactual |
| +   | better than the status quo                                   | -  | worse than doing nothing/the status quo/counterfactual        |
| +/- | mixed effects  | -- | much worse than doing nothing/the status quo/counterfactual   |

## **What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

50. The preferred option is option 4.

### *An exemption better meets the criteria than technical changes or a new pathway*

51. The technical changes would be unlikely to have any meaningful impact on investment into New Zealand's BTR sector nor a measurable impact on housing supply.
52. A pathway would go some way to easing the burden on the purchase of existing BTR assets by foreign investors. This would increase their 'tradability', addressing the liquidity risks that current settings create.
53. However, a consent pathway would solve these issues only partially and inefficiently. The application process would impose costs and potential delay and create uncertainty as a result of (albeit much more limited) discretion in the decision-making process. The low application volumes of the current pathways suggest this option could have a limited impact.
54. Creating a bespoke pathway for BTR investments alone would also add further complexity to the Act which creates risks of unintended consequences and legal uncertainty for both vendors and investors.
55. In contrast, options 3 and 4 would remove screening in many cases, or significantly reduce it others, providing upfront investor certainty, no delay, and significantly reducing regulatory burden on investors.

### *A broad exemption (option 4) is better than a narrower one*


56. A narrow exemption focussed only on BTR assets would pose a number of risks or issues, including:
  - a) a significant lack of regulatory coherence, by imposing different requirements on different housing sub-sectors and business models that are closely related,
  - b) potential distortion of the housing market and inefficient land use by regulatory settings favouring BTR relative to other large-scale development (such as apartments for on-sale), and
  - c) opportunities for (intentional and unintentional) breaches of the Act if the land is acquired for a BTR development, but an investor's plans change (whether as a result of market forces or with the intent of avoiding the more stringent tests for other models).
57. A broad exemption will have a strong positive impact on housing supply, simplify the legislation (to a greater or lesser degree depending on design choices outlined below) while mitigating negative impacts on risk.

### *Risk and international obligations*

58. The primary downside of an exemption is that the regulator loses the ability to verify that the investment is likely to meet the criteria for the exemption before it goes ahead, and, in the case of large-scale housing assets, the ability to monitor what land is used for after a purchase takes place.

59. However, the advantages of being able to manage noncompliance through a consent process are likely to be low relative to the costs that the pathways impose on investors and the resulting lost investment. There are also alternatives that are likely to be similarly effective at managing this risk – see in particular design decision D below.
60. This approach also removes Ministers' ability to call in a transaction for a national interest assessment for exempt assets. This reduces some controls that support management of investments that may pose risks to New Zealand's security or national interest. However, security and national interest risks are likely to be low for purely residential land transactions, and able to be sufficiently managed by the Act's existing tests and national security powers.<sup>20</sup>

61. s9(2)(h)



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<sup>20</sup> Part 3 of the Act contains a national security and public order screening regime that would apply if the transaction included interests in 'strategically important businesses' such as critical national infrastructure.



**Secondary Issues**

- 62. This section outlines options analysis for secondary issues (design decisions).
- 63. The following issues are assessed:
  - Issue A: Treatment of developers planning to build 1-19 dwellings
  - Issue B: Whether to also convert commercial and other non-residential purpose pathways to exemptions
  - Issue C: Timing conditions on exemptions
  - Issue D: Notifying the regulator of exempt transactions.
- 64. Issues A and B regard the treatment of investments in other types of assets on residential land which currently have bespoke pathways but would not necessarily be captured by an exemption for large-scale housing. The introduction of such an exemption would therefore create inconsistency for assets that were supposed to be treated similarly (or in some cases favourably) to large-scale housing.
- 65. Issue C regards control conditions in the Act to ensure the exemption is used appropriately. Issue D considers a mechanism to support monitoring the exemption’s use.
- 66. Assessment in the section assumes the adoption of the high-level preferred option above and compares the combination of that option and the relevant sub-option against the status quo of the current settings. This means that options that describe no additional change may still result in impacts relative to the status quo.

*Issue A: Treatment of developers planning to add 1-19 dwellings*

- 67. Under the Act at present, overseas investors who wish to purchase land and develop 1-19 new dwellings must obtain consent under the increased housing test and sell properties following completion of development, within a period specified by the Regulator (this does not apply to large-scale rental housing developments or long-term accommodation, where investors can retain assets in certain circumstances).
- 68. The requirement to sell new dwellings helps ensure new housing is quickly sold to New Zealand-based buyers, preventing overseas investors from becoming small-scale landlords or holding empty units indefinitely for speculative purposes in New Zealand.
- 69. As outlined above, the costs and uncertainty of the increased housing test raise concerns that the pathway is not functioning as intended, including for smaller developments. The introduction of an exemption for large-scale housing also introduces regulatory inconsistency.
- 70. As a result, the following options for the treatment of overseas investors wishing to purchase land to build 1-19 dwellings have been identified:
  - Option A1            Leave the increased housing test in the legislation for these cases
  - Option A2            Convert the pathway into an exemption
  - Option A3            Convert the pathway into an exemption, with a requirement to on sell within a year of completion.

|   | A1 – Retain increased housing test for new housing of 1-19 dwellings  | A2 – Exemption for 1-19 new dwellings   | A3 – Exemption for 1-19 new dwellings, with a requirement to on sell (preferred)                         |
|---|---|---|--|
| <b>Policy effectiveness</b>             | -<br>No impact on large-scale housing but retains current pathway for smaller developments, with its associated costs.                          | ++<br>Would be highly effective, better enabling housing development as intended by the current pathway                               | +<br>Would be effective, supporting housing development, though less-so than option A2                   |
| <b>Regulatory coherence</b>             | --<br>Introduces complexity and misaligns smaller developments with treatment of large-scale housing.   | -<br>Would align with the settings for large-scale housing but be out of alignment with the aims for residential land more generally. | +<br>Balances need to be consistent with large-scale housing and wider restrictions on residential land. |
| <b>Risk management / implementation</b> | -<br>Maintains current approach to risk management for these assets but may raise risk of deliberate avoidance due to misalignment of controls. | --<br>Potential for unintended consequences as considerably opens up land available for purchase.                                     | 0<br>Requirement to on-sell reflects current approach to risk management.                                |

71. Option A3 (an exemption to overseas investors planning to build 1-19 dwellings with a requirement to on sell developments after completion) best meets the criteria.
72. Option A1 does not meet the coherency criteria and would limit housing supply. If, as per option A1, the preferred high-level option is adopted (option 1) without a further change to the treatment of investors intending to build 1-19 dwellings, it would be easier to purchase large-scale assets than build smaller developments. This would be contrary to the intent of the 2018 changes, which were to enable new housing development.
73. Option A1 may also encourage deliberate avoidance as a result of the misalignment. Investors may purchase land utilising the BTR exemption (that is, with a stated intention of building more than 20 dwellings) but only build a smaller number. Although this would not have negative consequences, as more housing would get built, it would create difficulties for LINZ in deciding whether to address this noncompliance.
74. A2 also has negative impacts on regulatory coherence, owing to it being unaligned with the aims of the wider restrictions on the purchase of residential land. Under this option, the development of a single additional dwelling would become an easy pathway for overseas investors to own residential land.
75. It is unclear how many investors would exercise option A3. There were only nine applications under the increased housing pathway in 2023, and this is likely to be for developments of a larger number of dwellings. However, once costs are removed, more investors are likely to purchase land for this purpose.

*Issue B: Whether to also convert commercial and other non-residential purpose pathways to exemptions*

76. The Act currently includes a consent process for investors acquiring residential land for a commercial or other non-residential purpose (such as the development of a supermarket) or where the residential use is incidental to business operations (such as staff accommodation). In 2023, there were seven of these applications.
77. The adoption of the preferred high-level option without further changes to the commercial and other non-residential purpose pathways would result in regulatory incoherence.
78. Two options were considered:
- Option B1 Keeping the existing commercial and other non-residential purpose pathways (requiring consent for the purchase of land for these purposes),
  - Option B2 Converting the commercial and other non-residential purpose pathways to an exemption.

|   | <b>B1 – Keeping the existing pathway for non-residential use</b>   | <b>B2 – Converting the non-residential pathway to an exemption (preferred)</b>  |
|---|--|---|
| <b>Policy effectiveness</b>             | -<br>Retaining a test for these assets (which were not the intended target of the 2018 changes) would send a poor signal to investors. | +<br>Supports investor confidence more broadly through greater regulatory coherence.                                      |
| <b>Regulatory coherence</b>             | --<br>Misaligns treatment between different assets on residential land.  | ++<br>Would provide for coherence with other relevant asset classes on residential land.                                  |
| <b>Risk management / implementation</b> | 0<br>Maintains current risk management approach for relevant assets.   | + / -<br>Mixed effects – some risk of unintended consequences as a result of reduced screening. Low implementation costs. |

79. Option B2 is preferred. It would ensure regulatory coherence is maintained and avoid creating potential incentives for sub-optimal land use by imposing more stringent regulatory requirements over alternative uses of residential land than for housing (as per option B1). This option would also support the simplification of the Act – providing greater investor confidence. It would also support investment in productive businesses and services, such as supermarkets and medical practices.

*Issue C: Timing conditions on the exemptions*

80. This decision regards timing conditions considered to ensure OP's use the land for purposes in which the exemption is designed (i.e., the development of new housing where this is the intention, or the relevant non-residential use).

81. Options include:

- Option C1            No requirements
- Option C2            A requirement that the land is used for the defined purpose within a 'reasonable' time period (aside from new developments with 1-19 dwellings, as per above)
- Option C3            Specific time limits, e.g., a development must be complete within a number of stated years following its completion.

82. Options C2 and C3 would both be coupled with a requirement that if the investor decides not to proceed with an exempt purpose, then they must divest their interest in residential land.

|   | C1 – No requirements  | C2 – A requirement that the land is used for the defined purpose 'within a reasonable time period' (preferred)   | C3 – Specific time limits   |
|---|---|--|---|
| <b>Policy effectiveness</b>             | +<br>Would provide investors significant flexibility  | +<br>Provides flexibility for a wide range of development circumstances.   | +/-<br>Could be effective if well designed but challenging to provide for all circumstances   |
| <b>Regulatory coherence</b>             | --<br>Would establish an unenforceable exemption that contradicts broader restrictions on investing in residential land | +<br>Consistent with the aims of the wider restriction on investing in residential land.   | -<br>Would introduce complexity and may require processes for exceptions / extensions.  |
| <b>Risk management / implementation</b> | --<br>Increases likelihood of avoidance, provides no basis for ensuring exemption is used appropriately                 | 0<br>Lack of certainty could make it more difficult for the regulator to enforce. This could be mitigated via the publication of clear guidance by the regulator | +/-<br>Difficult to design in a way that would be effective for all scenarios but would provide clear requirements that could be enforced by the regulator. |

83. Option C2 – that legislation stipulates that land is used 'within a reasonable time period' for the intended purposes of the exemption – is the preferred option. This requirement supports the creation of an exemption that is used for its intended purpose – supporting consistency with the wider settings for investment in residential land – while continuing to provide flexibility for investors.

84. The lack of a specified time period may create some ambiguity, but this will be managed via guidance published by the regulator regarding what it considers to be ‘within a reasonable time period’.

*Issue D: Notifying the regulator of exempt transactions*

85. This decision regards whether or not to impose a notification on investors that rely on the exemption. A notification would require overseas investors to fill out an online form advising the regulator they have relied on an exemption to purchase land, and outlining, at a high-level, their intentions for the land and how they intend to meet the criteria for the exemption.
86. A notification process would support the regulator to monitor whether investors are complying with the conditions of the exemption, thereby discouraging non-compliance in the form of overseas investors occupying the property and/or buying and holding residential land without using it for the intended purpose.
87. This notification would come with a cost-recovery fee to support LINZ’s monitoring and enforcement costs. Monitoring of consent conditions and some compliance activity is currently cost-recovered via a portion of consent fees.
88. The following options are evaluated:
- Option D1            No notification
  - Option D2            A notification as described.

|   | D1 – No Notification   | D2 – Notification   |
|---|--|---|
| <b>Policy effectiveness</b>             | <p>+</p> <p>Investors would face no administration costs and have very little engagement with the regime.</p>                                | <p>-</p> <p>Would increase costs for investors (relative to no requirements), although these are unlikely to impact investor certainty.</p> |
| <b>Regulatory coherence</b>             | <p>--</p> <p>Would significantly reduce regulatory coherence via the imposition of requirements that could not be monitored or enforced.</p> | <p>++</p> <p>Would provide a coherent regime, with clear requirements.</p>  |
| <b>Risk management / implementation</b> | <p>--</p> <p>Would create requirements that are highly challenging to monitor.</p>   | <p>+</p> <p>Supports the regulator to monitor. Some implementation costs.</p>   |

89. A notification is the preferred option. The aim of a notification process would be to support the regulator to monitor whether investors are complying with the conditions of the exemption and put in place a risk-based approach to encouraging compliance. This would adhere to good principles of regulatory design – that is, law that can be monitored (both for purposes of compliance and considering potential changes) and enforced.

90. In the absence of a notification process and associated fee, the ability of the regulator to identify whether overseas investors have breached the conditions of the exemption would be highly constrained (potentially relying on third party reporting) and require reprioritisation within Crown funding.

## What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

91. To summarise, the preferred option is a broad exemption for large-scale housing, with the following design features:
- a) The conversion of the pathway for 1-19 new dwellings into an exemption, with a requirement to on-sell these within a year of completion
  - b) The conversion of the commercial and other non-residential purpose pathways to an exemption
  - c) A requirement that an overseas investor purchases residential land with large-scale housing assets, or that residential and purchased is used for one of the other defined purposes within a 'reasonable' time period
  - d) A required notification that overseas investors would fill out, advising the regulator they have relied on an exemption to purchase land, and, at a high-level, what their intentions for the land are and how they meet the criteria for the exemption.
92. This option meets all criteria:
- a) Policy effectiveness: this exemption as designed will have the greatest positive impact on investor confidence. It supports a wide range of business models unambiguously and will be straightforward to communicate. It will provide investors with greater certainty that the Act will not limit their ability to on sell BTR developments – supporting the growth of this industry. It will also encourage the provision of housing more generally, including at a lower scale.
  - b) Regulatory coherence: the preferred option is highly coherent. This coherency will make the policy relatively easy to implement and communicate, further supporting policy effectiveness.
  - c) Risk management / implementation: in increasing the amount of land that is not screened under the Act, this option potentially increases the likelihood of noncompliance with the broader restrictions on purchasing residential land. However, the notification process provides an appropriate mechanism to ensure the risk of noncompliance.

### *Impacts*

93. This policy will reduce the cost of doing business and improve investor confidence in a number of sectors that require the purchase of, or operate on, residential land, including:
- a) The development and operation of large-scale housing, including BTR, long-term accommodation, apartment development, and key worker accommodation,
  - b) Smaller scale housing development, and
  - c) Commercial activities such as supermarkets and medical practices.

94. The preferred option reduces the regulatory barriers to housing supply, likely resulting in a housing market with more responsive supply. Direct evidence regarding the impact of investment restrictions on housing supply is limited. However, the likely impacts of the preferred option can be identified using evidence from other policies that support increased housing supply via a reduction in regulatory barriers. For example, the impacts on land-use reform are well established<sup>21</sup>.
95. Evidence from land-use reform<sup>22</sup> identifies that, in addition to keeping downward pressure on prices, the benefits of more responsive housing supply include lower infrastructure costs (where intensification offsets greenfield development), health and wellbeing benefits, and economic benefits as a result of higher population density. Costs include congestion and sunlight loss, but these are shown to be consistently lower than the benefits<sup>23</sup>.
96. Although the impacts of the changes considered in this paper will be of a much lower magnitude than broad based land-use reform, they are likely to arise at similarly positive ratios (that is, the benefits of additional housing supply tend to rise commensurately to costs and consistently outweigh them).
97. Regarding prices, over the long run a more responsive housing market will result in lower house prices. Land prices may increase in some locations, such as where it is most suitable to build new housing, but a more responsive market will result in lower dwelling costs overall.
98. Some stakeholders may have concerns that foreign capital inflows could lead to increases in house prices. It is possible that a sudden and significant inflow of capital could lead to increased land prices in the short-to-medium term. This outcome is unlikely in this case, however, as these changes are targeted to transactions that either require the development of new housing or involve subsectors of the market that would benefit significantly from foreign capital (and which can be expected to support industry growth overtime).
99. The *magnitude* of the impacts that will result from these changes is unclear, however, because it depends on the volume of housing that is developed as a result of the exemption. This is difficult to predict, but countries with more supportive regimes have seen significant growth in the BTR sector, including the UK and the US, and, more recently, Australia.
100. Beyond the housing market, these changes will support investment in businesses on residential land (for example, supermarkets and medical practices). Although unlikely to have a significant impact, the exemption will support competition in these sectors.
101. Impacts on the regulator or wider government are unlikely to be substantial as the preferred option replaces cost-recovered activities with new cost-recovered activities (albeit at a smaller scale).
102. Impacts are summarised in the following table.

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<sup>21</sup> An overview of these impacts can be found in *The costs and benefits of urban development*:  
[https://environment.govt.nz/assets/Publications/Files/costs-and-benefits-of-urban-development-mr-cagney\\_0.pdf](https://environment.govt.nz/assets/Publications/Files/costs-and-benefits-of-urban-development-mr-cagney_0.pdf)

<sup>22</sup> See, for example the *Cost Benefit Analysis for the Medium Density Residential Standards*  
<https://environment.govt.nz/assets/publications/Cost-benefit-analysis-of-proposed-MDRS-Jan-22.pdf>

<sup>23</sup> The cost benefit analysis for the Medium Density Residential Standards estimated the benefits of new housing to outweigh the costs at a ratio of between 1.27 and 2.47



## What are the marginal costs and benefits of the option?

| Affected groups  | Comment   | Impact   | Evidence Certainty  |
|--|---|--|---|
| <b>Additional costs of the preferred option compared to taking no action</b>               |   |  |   |
| Current residents / ratepayers   | An increase in development can have a range of negative impacts on cities and existing residents. This can include impacts on infrastructure, loss of sunshine and views and congestion (i.e. transport effects)  | Low – negative effects are already taken into account and managed by RMA plans and these changes are likely to enable more intense development in areas that are better suited to it (which shifts and reduces the locus of effects) | Medium – a wide range of evidence exists on the impacts of enabling housing. This evidence is analogous but not directly related to the changes covered in this paper.                    |
| <b>Additional benefits of the preferred option compared to taking no action</b>            |   |  |   |
| Overseas persons intending to purchase relevant land                                       | Applicants would previously either have had administration costs and delays as a result of having to apply to the regulator for these purchases, or they would have chosen not to complete the purchase (missing out from the investment gain).   | Medium – fees for a consent to develop new housing on residential land costs start at around \$35,500. To purchase existing assets (via the benefit to New Zealand test) fees are \$68-\$139,000                                     | High – these benefits result from currently existing costs that will be removed.  |
| Owners of large-scale housing assets or potential developers of large-scale housing assets | Owners of large-scale housing assets will have a wider range of buyers, meaning they can get higher prices for these when they eventually sell. Potential developers of large-scale housing projects will have greater certainty they can sell for a fair price, making it more likely they will proceed with these projects. | Medium – in the form of higher on sale value, or the entire profit for projects that would not otherwise have occurred.  | High / mixed – these are direct benefits as a result of the changes, but magnitude will depend on response.   |
| New homeowners, renters, residents of long-term accommodation                              | Additional consumer surplus from more affordable accommodation. Additional supply will improve affordability and allow more households to become homeowners, rent at a more affordable level or access cheaper long-term accommodation. There will also likely be benefits from   | High – the value of new and cheaper housing is high across a number of dimensions.   | Mixed – there is strong evidence that supply has a long run negative impact on house prices but limited bespoke evidence on the extent of investment as the barrier. The benefits of more |

|                              |   |      |   |
|------------------------------|---|------|---|
|                              | housing investment in more accessible locations (such as improved accessed to jobs and services)  |      | affordable accommodation are extensive.   |
| Other residents / ratepayers | Denser housing contributes a wide range of benefits beyond those that accrue to residents. This includes agglomeration benefits, reduced infrastructure costs as a result of lower greenfield development, and benefits resulting from less soil loss | High | Low – an extensive literature exists on these benefits, but the magnitude is dependent on the supply response which is highly uncertain in this case. |

### **Section 3: Delivering an option**

#### **How will the new arrangements be implemented?**

103. The proposed exemption will require:
- a) Operational changes by the regulator, in the form of the replacement of existing business functions to process consents with those for receiving notifications
  - b) The development of a new monitoring plan,
  - c) Transitional arrangements for investors holding existing consents and standing consents and investors with applications which are currently being reviewed by the regulator but will become eligible for exemption upon commencement, and
  - d) Communication with stakeholders.
104. An implementation plan will be developed by the regulator, LINZ, with the support of the Treasury, as the legislation progresses.
105. This will include a communication plan which will incorporate changes to the LINZ website and targeted communication with stakeholders.
106. The Regulator will monitor compliance with these changes as it does for the Act more broadly and put in place a risk-based approach to encourage it.

#### **How will the new arrangements be monitored, evaluated, and reviewed?**

107. The Regulator monitors compliance with the Act and applies a risk-based approach to encourage it.
108. Notification will enable the government to track use of the exemption, including the types of developments it is supporting. This will be used to inform ongoing policy review.
109. s9(2)(h)