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## OVERSEAS BUYERS—CHANGES COMING TO THE ABILITY TO BUY RESIDENTIAL LAND IN NEW ZEALAND

The Overseas Investment Amendment Bill (“the Bill”) is currently before Parliament. Once the Bill is enacted it will amend the Overseas Investment Act 2005 (“the Act”), affecting overseas buyer’s ability to purchase residential land in New Zealand.

The Act provides that the Government’s consent needs to be obtained to any purchases of sensitive land by an overseas person

Currently an overseas person is anyone who is not:

- (a) a New Zealand citizen; or
- (b) a New Zealand residence visa holder who is either:
  - (i) domiciled in New Zealand; or
  - (ii) has resided in New Zealand for the past twelve months and plans to permanently reside in New Zealand.

Sensitive land is currently defined as non-urban land that exceeds 5 hectares, land on Waiheke Island, land that is part of the bed of a lake or part of the foreshore. The current definition does not include residential land. So any person can purchase land residential land in New Zealand without needing the consent of the Government.

Once the Bill is enacted the definition of who is an overseas person will be enlarged. In that an overseas person will be someone who is not:

- (a) a New Zealand citizen; or
- (b) a New Zealand residence visa holder who:
  - (i) has resided in New Zealand for the past twelve months;
  - (ii) is tax resident in New Zealand; and
  - (iii) has been present in New Zealand for at least 183 days in the past twelve months.

The definition of sensitive land will also be amended to include any residential land.

The implication of these two amendments is that overseas persons will no longer be able

to purchase residential land in New Zealand unless they have the Government’s consent.

The Government’s consent will only be granted if the overseas person can show that it:

- (a) will develop the land to add to New Zealand’s housing supply; or
- (b) will convert the use of the land to a use that has wider benefits for New Zealand; or
- (c) holds a New Zealand residence visa and shows commitment to reside in New Zealand.

Take for example Helen, she lives in China and is a Chinese citizen. Helen’s son came to live in New Zealand to work and in due course became a citizen. In 2009 Alex started looking to buy his first home, however, he couldn’t afford it by himself, so Helen agreed to contribute funds towards the purchased on the basis she owned a share of the property. Helen and Alex were registered as tenants in common as to a half share each on the certificate of title. This arrangement was fine in 2009 as the property purchased by Alex and Helen was residential land, so the governments consent was not required.

However, now Alex has decided to sell that property and purchased another property, involving the same arrangement with Helen as before. Once the Bill is enacted, Helen cannot own half of the property unless she has the consent of the Government and the Government is unlikely to grant consent to Helen owning the property as she does not meet any of the criteria for when consent will be granted.

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