

LEX MUNDI
PUBLICATION



ISSUES RELATING TO FOREIGN INVESTMENT

NEW ZEALAND Simpson Grierson

CONTACT INFORMATION:

Gregory Towers, Esquire

Simpson Grierson

88 Shortland Street

Private Bag 92518

Auckland, New Zealand

Tel. 64.9.9775051

greg.towers@simpsongrierson.com

1) Is national governmental permission required for foreign investors to acquire real estate? If so, please identify.

Consent from the New Zealand Government's Overseas Investment Office is required for an overseas person to acquire an interest in real estate (which includes both freehold and leasehold interests) if the real estate being acquired:

- is rural (or non-urban) land greater than 5 hectares; or
- includes or adjoins land that is considered to be "sensitive" pursuant to the Overseas Investment Act 2005. Land is considered to be "sensitive" for the purposes of the Overseas Investment Act if it includes or adjoins foreshore, seabed, lakebed, certain islands, land that is subject to a heritage order, registered historic places or areas, land held for conservation purposes, any scientific reserve, scenic, historic or nature reserve, land that is designated for use as a reserve, public park or public open space.

The Overseas Investment Office website (www.oio.linz.govt.nz) includes flow charts setting out the types of land which require consent for overseas investment.

2) Are there other national restrictions imposed on ownership of real estate by foreign investors? To acquire interests in entities which own real estate? If so, please identify.

Consent from the New Zealand Overseas Investment Office is required by an overseas person to acquire interests in entities if the overseas person is acquiring 25% or more ownership or controlling interest in an entity, and:

- The entity being acquired owns or leases "sensitive land" in New Zealand (being the type of land identified above); or
- The value of the securities or consideration provided, or the value of the entity being acquired exceeds NZ\$100 million.

3) Are foreign investors required to invest with a local partner? If not, is investment with a local partner advisable?

There is no such requirement. However, an application for governmental consent must show that the overseas investment in New Zealand real estate will be of benefit to New Zealand, and there are stringent requirements and specific information must be provided to the Overseas Investment Office to satisfy those requirements.

The Overseas Investment Office website (www.oio.linz.govt.nz) provides further information on the requirements for making an application for the acquisition of land or significant business assets.

4) What national taxes are levied solely on foreign individuals or entities acquiring or transferring real estate or interests in entities which acquire real estate?

There are currently no taxes (such as land tax or capital gains tax) levied solely on foreign investors acquiring or transferring real estate.

Depending on the nature of the transaction a Goods and Services Tax (equivalent to 12.5% of the purchase value) may be payable.

The cost for filing an application to the Overseas Investment Office is between NZ\$8,200 and NZ\$8,700. This application fee is non-refundable regardless of whether consent is granted.

5) Describe reporting requirements for reporting the acquisition, ownership or disposition of real estate which relate solely to foreign direct or indirect owners of real estate.

Overseas investors must comply with the representations and plans for the real estate set out in their application to the Overseas Investment Office.

Where consent to the overseas investment in real estate has been granted subject to certain conditions, the overseas investor must provide information to the Overseas Investment Office (the nature and timing of that information being in accordance with those specified by the Overseas Investment Office) for the purposes of monitoring compliance with those conditions.

There are certain reporting requirements specified by the Overseas Investment Office once consent is granted, for example, the Overseas Investment Office will specify dates by which the overseas investor is to confirm such things as the completion of the acquisition.