

The Treasury

LEG-24-MIN-0027: Amending the Overseas Investment Act 2005 to Support Investment in Build-to-Rent Information Release

June 2024

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Cabinet Document Details

Title: Cabinet Minute: LEG-24-MIN-0027 Amending the Overseas Investment Act 2005 to Support Investment in Build-to-Rent

Date: 7 March 2024

Creator: Cabinet Office

Information Withheld

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Where this is the case, the relevant sections of the Act that would apply have been identified.

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Key to sections of the Act under which information has been withheld:

[33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials

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Cabinet Legislation Committee

Minute of Decision

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Amending the Overseas Investment Act 2005 to Support Investment in Build-to-Rent

Portfolio **Associate Finance (Hon Chris Bishop)**

On 7 March 2024, the Cabinet Legislation Committee, having been authorised by the Prime Minister to have Power to Act:

- 1 **noted** that the Overseas Investment Act 2005 (the Act) current provides overseas investors with a ‘streamlined pathway’ to acquire an interest in residential land if they build new housing, but requires overseas investors to obtain consent under a more onerous ‘benefit to New Zealand’ test for the purchase of existing housing assets;
- 2 **noted** that investors may not be building large build-to-rent (BTR) developments in New Zealand due to a lack confidence in their ability to exit the investment because of the scarcity of domestic capital in relation to the value of large BTR developments, and because none of the Act’s streamlined pathways apply to the acquisition of existing BTR assets by subsequent overseas purchasers;
- 3 **noted** that the Act’s restrictions on the ability to sell BTR assets to overseas investors pose a barrier to the growth of the BTR sector;
- 4 **agreed** to amend the Act, and related legislation as necessary, to provide a streamlined consent pathway that applies to overseas investors acquiring an interest in residential land in order to build or operate BTR or similar rental developments with 20 or more dwellings;
- 5 **agreed** that this streamlined consent pathway be conditional on the investor:
 - 5.1 paying a fee, to ensure the regime to fully cost-recovered;
 - 5.2 not occupying the land, or having individuals connected to them occupy it;
 - 5.3 utilising the land for the consented purpose within a timeframe determined by the regulator, and;
 - 5.4 divesting their interest in the asset if the asset is no longer to be operated as a BTR development, and in line with any conditions imposed by the regulator as part of the consent;
- 6 **agreed** to make other minor and technical amendments to improve the operation of the Act’s residential consent pathways, including addressing inconsistencies and ambiguities;

7 **noted** that the regulator will be able to use its existing enforcement and monitoring powers to ensure investors comply with their consent conditions;

Next steps

8 **invited** the Associate Minister of Finance (Hon Chris Bishop) (the Associate Minister) to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above proposals;

9 [33]

10 **noted** that the Associate Minister will work with the office of the Prime Minister to announce the above changes as part of the Government's 100-day plan;

11 **agreed** that the Ministerial Directive Letter attached as Annex One to the paper under LEG-24-MIN-0027 be released following the announcement, subject to any minor or technical changes;

12 **authorised** the Associate Minister to make decisions on any additional technical and policy issues that arise during drafting, consistent with the intent of decisions above;

13 **authorised** the Associate Minister and Minister for Land Information jointly to make decisions on the fee(s) referred to in paragraph 5.1 above.

Sam Moffett
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Chris Bishop (Chair)
Hon Dr Shane Reti
Hon Erica Stanford
Hon Paul Goldsmith
Hon Judith Collins
Hon Tama Potaka
Hon Brooke van Velden
Hon Nicole McKee
Hon Shane Jones
Hon Simon Watts
Hon Andrew Hoggard
Hon Scott Simpson
Todd Stevenson, MP
Jamie Arbuckle, MP

Officials present from:

Office of the Prime Minister
Office of the Chair
Officials Committee for LEG