

Exemption

Decision date	20 September 2024
Case	202400604
Exemption from requirement for consent	<p>Hao Huang is exempt from the requirement for consent for:</p> <ul style="list-style-type: none"> the acquisition of an undivided <i>freehold</i> interest as tenants in common in record of title NA39A/1131. <p>Every person is exempt from the requirement for consent for:</p> <ul style="list-style-type: none"> the acquisition of an interest in land resulting from the conversion of the cross-lease in records of title 171271, 171272, 171273, or 171274 or replacements for those records of titles, provided the person was the registered owner of the cross-lease title immediately prior to the conversion.
Timeframe	<p>This exemption expires on:</p> <ul style="list-style-type: none"> 31 December 2024 for the acquisition of the freehold interest and 31 August 2029 for the conversion of the cross-lease.

Conditions

This exemption has been granted unconditionally.

Reasons for exemption

The development comprises four cross-leased units built on leasehold land. The leasehold land is subject to a perpetually renewable lease under the Public Bodies Leases Act 1969.

The owners of the four units each have a ¼ undivided leasehold interest as tenants in common, and then have a cross-leased interest in the underlying leased land. The owners have agreed to acquire the underlying freehold and will consider converting the cross lease at some point in the future.

Consent is required because one owner is an overseas person under the Overseas Investment Act, and as a result of both the acquisition of the freehold and conversion of the cross-lease, will acquire a new interest in sensitive land. The person will acquire an undivided interest as tenants in common in the freehold upon acquisition of the freehold interest and will acquire the freehold for their part of the development upon conversion of the cross lease.

The exemption is minor or technical because:

- Acquisition of freehold: The lessees already have an indefinite right to occupy the land subject only to complying with the terms of the lease (including payment of rent). The homes built on the land are already the property of the lessees. The acquisition of the underlying freehold merely unifies ownership of the land and home, simplifying the tenure.
- Conversion of cross-lease: The conversion of the cross-lease results in no material change in the ownership or control of the persons land, merely a modernisation and simplification of the underlying tenure

The extent of the exemption granted is not broader than reasonably necessary.

- The exemption for the acquisition of the freehold exemption only applies only to Ms Huang and lasts only until the end of 2024.
- The exemption for the conversion of the cross-lease lasts for five-years (to give the owners a reasonable period of time to complete that process), but only applies to specific properties, and only for the owners of those properties (the exemption does not allow a new owners to acquire the converted title).

We consider that there are circumstances that mean it is necessary, appropriate, or desirable to provide an exemption, and that the extent of the exemption is not broader than reasonably necessary to address these circumstances. Specifically:

- The one overseas owner acquired their interest prior to residential land becoming sensitive land in 2018,
- there will be no change to the occupation of the land, and
- without the exemption for the overseas owner, the New Zealand owners of other lots will be prevented from acquiring the freehold and converting the cross-lease.