

# Overview of the current Overseas Investment Act

Regulating overseas investment into New Zealand

## An overseas person who acquires a sensitive asset requires consent under the Overseas Investment Act 2005

Toitū Te Whenua Land Information New Zealand (LINZ) assesses applications, and then either they, or Ministers, make a decision on the application.

## Role of LINZ

LINZ regulates overseas investment in New Zealand's sensitive land, significant business assets, and fishing quota. LINZ assesses notifications, and applications for consent under the Overseas Investment Act 2005. LINZ also monitors and enforces compliance with the Act.

## Changes to the Overseas Investment Act

Reform of New Zealand's overseas investment law supports overseas investment into New Zealand by simplifying the Overseas Investment Act 2005 and reducing the screening of low-risk transactions. The reforms also ensure that the right checks and balances are in place to protect New Zealand's economy, communities, and national security.

## An overseas person is either

- a person who is not a New Zealand citizen
- a person who is not ordinarily resident in New Zealand
- an entity incorporated overseas
- an entity more than 25% owned or controlled by overseas investors
- a New Zealand individual or entity investing on behalf of any of the above

## An investment covered by the Act could be made by

- buying the asset
- investing in the asset
- leasing for more than three years
- acquiring shares or securities
- initiating a takeover of the asset

## Further information

More information on the overseas investment regime, and copies of the current Ministerial Directive Letters and delegation of functions, duties and powers are on the Toitū Te Whenua website [linz.govt.nz](http://linz.govt.nz).

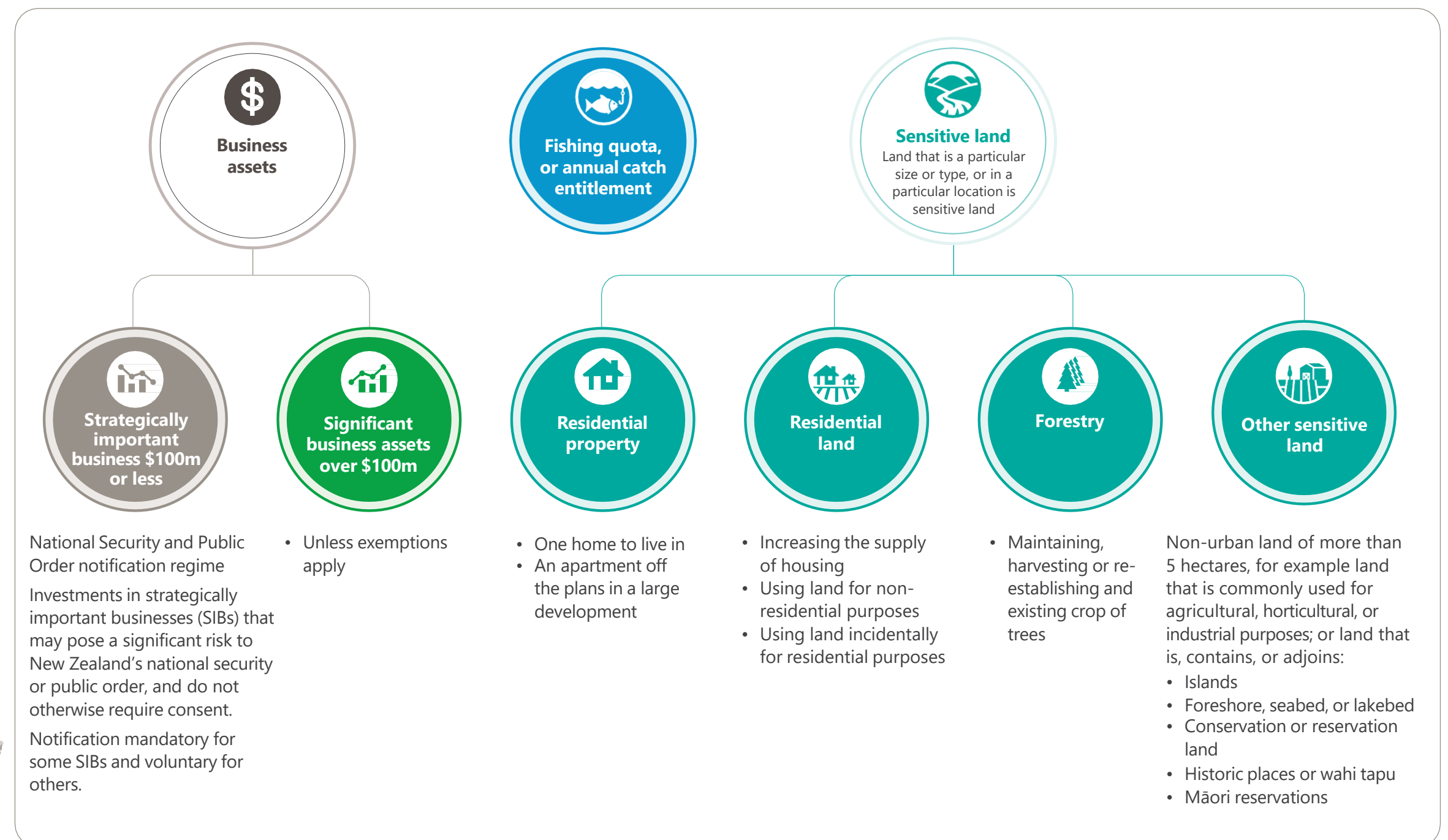
Overseas Investment Act 2005 and Overseas Investment Regulations 2005 are available on the New Zealand legislation website [legislation.govt.nz](http://legislation.govt.nz).

New Zealand's foreign investment policy and national interest guidance is available on the Treasury website [treasury.govt.nz](http://treasury.govt.nz).



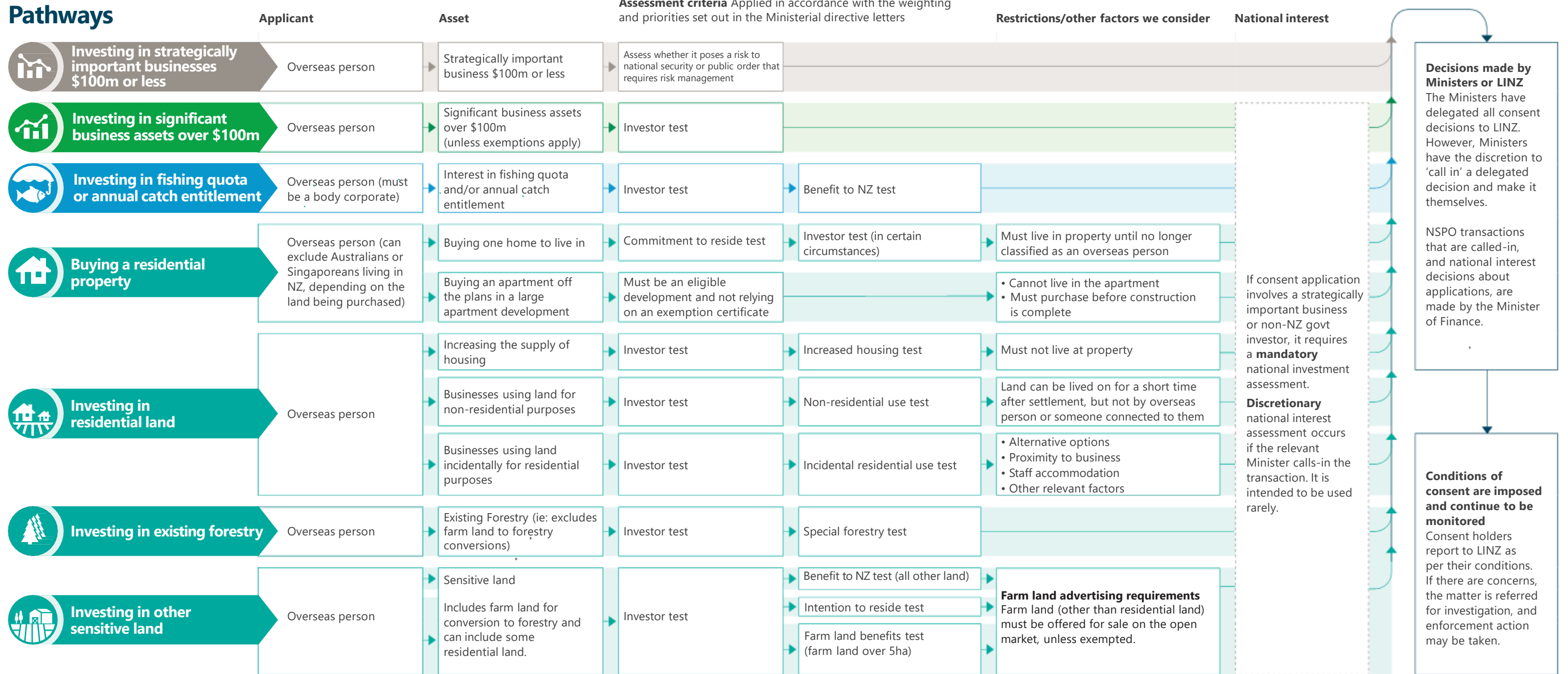
## Sensitive assets

Transactions can involve more than one type of sensitive asset



# Current investment pathways

The different criteria that apply



## Summary of tests

**Benefit test** – Assesses whether the investment provides benefit to New Zealand, based on 7 benefit factors set out in the Overseas Investment Act 2005. A current state assessment is applied to ensure the benefit is additional to what currently exists.

**Commitment to reside test** – Assesses whether the applicant has a residence class visa, is committed to living in New Zealand, and that they are purchasing one residential property for the purpose of living in it.

**Farm land benefits test** – High relative importance on 'economic benefit' and 'oversight and participation by New Zealanders' factors, with a substantial benefit required in at least one of these.

**Incidental residential use test** – To ensure that the residential land is only lived on for reasons closely connected to the business.

**Increased housing test** – To increase the number of homes or places in long-term accommodation facilities (eg aged care facilities).

**Intention to reside test** – Applicants who intend to make New Zealand their permanent home, and where the land is sensitive land that is not classified as residential land, generally need to hold an appropriate visa and show actions and plans consistent with an intent to reside in New Zealand within 12 months.

**Investor test** – Determines whether an investor is suitable to own or control sensitive New Zealand assets, by assessing the risk they pose against character and capability factors.

**Investor test: repeat investor** who have satisfied the new investor test (in effect from 22 March 2021) do not need to satisfy the test again unless there is a change in circumstances.

**Investor test: standalone investor** – Investors may apply at any time for an assessment of their suitability to own and control sensitive New Zealand assets (e.g. in preparation for being part of a wider investment group/entity).

**National interest assessment** – Applies to consent applications where national interest concerns arise because, for example, it involves a strategically important business.

**Non-residential use test** – Ensures that residential land is only used for necessary business purposes.

**Special forestry test** – Streamlined investments in existing forestry.

**Standing consent** – Investors with a positive track record with LINZ may apply for this form of pre-approval when investing in forestry or residential land.