

Agreement on outcome of an investigation of breaches of the Overseas Investment Act 2005

The Chief Executive of Land Information New Zealand

(Regulator)

CRV Limited

Animal Breeding Services (2007) Limited

(Investors)

Dated: 24 January 2020



*John Lee
2020*

Agreement dated 24 January 2020

1 Parties

The Chief Executive of Land Information New Zealand, being the chief executive of the department designated as the regulating department by the Minister of Finance

(Regulator)

CRV Limited, a limited liability company incorporated in New Zealand, having its registered office at Melody Lane, Innovation Park, Ruakura, Hamilton (CRV)

Animal Breeding Services (2007) Limited, a limited liability company incorporated in New Zealand, having its registered office at 105 Bellevue Road, Rd 4, Hamilton (ABS)

(Investors)

2 Definitions

2.1 In this agreement:

- (a) **Act** means the Overseas Investment Act 2005
- (b) **Bellevue land** means the land in computer freehold register SA54A/738-40 and SA54A/781-83, being approximately 38 ha situated at 105 Bellevue Road, Cambridge
- (c) **Bellevue lease** means the lease between Bellevue Enterprises Limited (Lessor) and CRV (Lessee) dated 12 May 2014
- (d) **CRV International BV** is the registered shareholder of CRV and the majority shareholder in ABS. CRV International BV is owned by CRV Holdings BV, which is, in turn, owned by the Netherlands cooperative, Coöperatie Rundvee Verbetering
- (e) **Interest in land** is given the same meaning as it is under s 12 of the Act
- (f) **Investors** collectively means CRV and ABS and any related entities
- (g) **Kihikihi land** means the land in computer freehold register SA48A/431, being approximately 41 ha situated at 2584 Kihikihi Road, Te Awamutu
- (h) **Old Kihikihi lease** means the lease between Pasture Peak Holdings Limited and Veterinary Enterprises (1991) Limited (Lessor) and (as a result of an assignment) ABS (Lessee) dated 1 November 2002
- (i) **New Kihikihi lease** means the lease between The Trustees of the Wipaea Manu Trust (Lessor) and ABS (Lessee) dated 16 March 2014
- (j) **Overseas Person** has the meaning set out in section 7 of the Act
- (k) **Sensitive Land** has the meaning set out in section 12 of the Act.

John Low
2020

3 Introduction

- 3.1 Following self-reporting by ABS and ARV, the Regulator has investigated suspected breaches of the Act in relation to the Investors' acquisition of Sensitive Land without consent under the Act.
- 3.2 This Agreement records the findings of the Regulator and the means by which the investigation is to be resolved.
- 3.3 This Agreement may be made public by the Regulator (including on the Regulator's website).

4 Requirements of the Act

- 4.1 Sections 10 to 12 of the Act require a person to obtain consent for a transaction that will result in an overseas investment in sensitive land before the overseas investment is given effect under the transaction.
- 4.2 Section 42 of the Act provides that a person who is required to apply for consent to an overseas investment transaction commits an offence if that person gives effect to the overseas investment (including obtaining an interest in sensitive land) without consent required under the Act.

5 Summary of the Facts

The Investors

- 5.1 The Investors are animal genetics and breeding companies incorporated in New Zealand.
- 5.2 CRV was incorporated in New Zealand on 25 March 1976 and ABS was incorporated in New Zealand on 31 May 2005.
- 5.3 The Investors are Overseas Persons because CRV International BV, a company incorporated in the Netherlands, has a 25% or more shareholding in the Investors.

Leasehold interests

Old Kihikihi lease

- 5.4 On 31 July 2012, CRV International BV purchased the assets of Liberty Genetics Limited through a special purpose vehicle, Liberty Genetics 2012 Limited.
- 5.5 The effect of this transaction was that ABS became an Overseas Person because CRV International BV acquired more than 25% of the shares in ABS, being Liberty Genetics Limited's 25.01% interest in ABS.
- 5.6 At the time that CRV International BV acquired a 25% or more interest in ABS, ABS leased the Kihikihi land (although the term remaining on the old Kihikihi lease in 2012 was less than 3 years).

New Kihikihi lease

- 5.7 In 2014 the old Kihikihi lease expired.

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and

- 5.8 On 31 March 2014 ABS entered into the new Kihikihī lease. The term of the new Kihikihī lease was for three years and included a further three year right of renewal (which was exercised in 2017).
- 5.9 ABS required consent under the Act when it entered into the New Kihikihī lease because:
- (a) 25% or more of its shares were held by Overseas Persons when it acquired its interest in the Kihikihī land; and
 - (b) The Kihikihī land is Sensitive Land because it is over 5 hectares and is non-urban.
- 5.10 No consent was obtained for ABS to acquire its leasehold interest in the Kihikihī land.

Bellevue lease

- 5.11 On 12 May 2014 CRV entered into a lease over the Bellevue land.
- 5.12 The lease was for a term of 6 years with two rights of renewal for 6 years each.
- 5.13 CRV required consent under the Act to obtain its interest in the Bellevue land because:
- (a) 25% or more of its shares were held by Overseas Persons when it acquired its interest in the Bellevue land; and
 - (b) The Bellevue land is Sensitive Land because it is over 5 hectares and is non-urban.
- 5.14 No consent was obtained for CRV to acquire its interest in the Bellevue land.

6 Regulator's findings

- 6.1 The Regulator has concluded that:
- (a) The Investors breached the Act when they each acquired an interest in the Kihikihī land and Bellevue land without consent under the Act.
 - (b) The evidence is consistent with the Investors' conduct being inadvertent.
 - (c) The Investors self-reported the breaches of the Act to the Regulator and have cooperated fully with the Regulator's investigation.

7 Terms of settlement

- 7.1 The Regulator and the Investors have agreed to settle the investigation into the Bellevue land and Kihikihī land on the following terms:
- (a) The Investors:
 - (i) admit breaching the Act by acquiring an interest in the Bellevue land and Kihikihī land without consent under the Act;

- (ii) in relation to the interest in the Bellevue land, CRV will apply for retrospective consent by 28 February 2020, or otherwise dispose of its interest in the Bellevue land in accordance with Clause 8 of this Agreement; and
 - (iii) in relation to the interest in the Kihikihi land, ABS undertake to vacate the land on or before the expiry of the current term of the New Kihikihi lease, being 31 March 2020.
- (b) The Regulator will close its investigation in relation to the Investors' interest in the Bellevue land and Kihikihi land once:
- (i) the Kihikihi land has been vacated and ABS has reported in writing to the Regulator with evidence that ABS has disposed of its interest in the Kihikihi land; and
 - (ii) a retrospective application has been granted for the Bellevue land, or CRV's interest in the Bellevue land has been disposed of in accordance with Clause 8 of this Agreement.
- 7.2 In settling the investigation on the terms set out in this Agreement, the Regulator has had regard to the Regulator's enforcement criteria, including the Solicitor-General's Prosecution Guidelines and the Land Information New Zealand's Prosecution policy.

8 Disposal process

- 8.1 If an application for retrospective consent for the Bellevue land is withdrawn by CRV, or rejected or refused by the Regulator, CRV must dispose of its interest in the Bellevue land.
- 8.2 The Regulator will give CRV written notice if it requires CRV to dispose of its interest in the Bellevue land.
- 8.3 After the Regulator has given CRV notice, CRV must:
- (a) Within twelve months of the Regulator's notice, dispose of its interest in the Bellevue land to a third party who is not an associate of CRV as defined in section 8 of the Act.
 - (b) Within one month after CRV's interest in the Bellevue land has been disposed of, report in writing to the Regulator with evidence that CRV have disposed of its interest in the Bellevue land.

9 Public statements

- 9.1 The Regulator may make public statements in relation to the content of the settlement on or after the closure date, including publishing this Agreement on the Land Information New Zealand website.
- 9.2 Except as required by law, the Investors agree that it will not make any public statement in relation to this Agreement or the investigation until after the Regulator has notified the Investors that details of the settlement have been published on the Overseas Investment Office website. The Investors will provide a copy of any statement to the Regulator at least 2 hours in advance of making the statement public.

- 9.3 The parties agree that any public statements relating to the Investigation will be made in good faith and be consistent with the spirit and intent of this Agreement.

10 Entire Agreement

- 10.1 This Agreement constitutes the entire understanding and agreement between the parties in relation to the Investigation, and fully supersedes any and all prior agreements, arrangements, representations or understandings (whether orally or in writing) between the parties pertaining to the investigation.
- 10.2 The parties agree that this Agreement is in full and final settlement of all claims and proceedings that the Regulator has, or may have, in respect of the Investors in relation to the interests in the Belvedere land and Kihikihi land as outlined in Clause 5.
- 10.3 The parties represent and agree that they are each voluntarily entering into this Agreement having had the opportunity to receive independent legal advice.

11 Miscellaneous matters

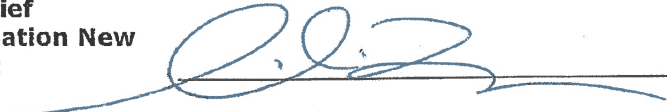
- 11.1 This Agreement will be governed by, and construed in accordance with, the laws of New Zealand.
- 11.2 No amendment to this Agreement will be effective unless it is in writing and signed by all of the parties.
- 11.3 Any delay by the Regulator in acting upon any breach of this Agreement will not operate by way of waiver.
- 11.4 The parties may enter this Agreement by signing any number of counterparts, each of which will be treated as an original. All of the counterparts taken together will constitute a single document. A party may execute this Agreement by one signatory executing one counterpart and another signatory executing a different counterpart. A party's delivery of a signed facsimile or pdf counterpart of this Agreement will have the same legal effect as that party's delivery of a single original counterpart.

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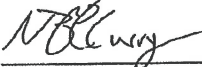
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Execution

Signed by Clare Louise Neeldham
for and on behalf of **The Chief
Executive of Land Information New
Zealand** in the presence of:



Witness to signature:



Signature of witness

Nelson James Paul Curry

Name of witness

Solicitor

Occupation

Wellington

City/town of residence

Signed by John David Hepburn
for and on behalf of **Animal Breeding
Services (2007) Limited** in the
presence of:



Witness to signature:



Signature of witness

Nicole BURGER

Name of witness

Financial Manager

Occupation

Hamilton

City/town of residence



Signed by Angus Henry Langstaff Hissett
for and on behalf of **CRV Limited** in
the presence of:

Angus Hissett

Witness to signature:

[Signature]
Signature of witness

PETA SCOTT
Name of witness

ACCOUNTANT
Occupation

HAMILTON
City/town of residence