

1. Decision Date

22 July 2022

2. Duration of the Exemption

This Exemption expires at the close of 22 July 2023.

3. Interpretation

(1) In this notice, unless the context otherwise requires—

Act means the Overseas Investment Act 2005

Exemption means the exemption in paragraph 5

Exemption Holder means Fletcher Residential Limited

OIO means the Overseas Investment Office

Regulations means the Overseas Investment Regulations 2005

Land means two titles at Waihoehoe Road, Drury:

(a) 11.9877 hectares at 76 Waihoehoe Road, contained in record of title NA65D/733; and

(b) 4.1991 hectares at 76A Waihoehoe Road, contained in record of title NA65D/732

Transaction means the acquisition by the Exemption Holder of the Land from the Vendor

Vendor means The Sovereign in right of New Zealand, acting by and through Te Tuapapa Kura Kainga, Ministry of Housing and Urban Development

(2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this Exemption has the same meaning as in the Act or the Regulations (as the case may be).

4. Exemption from farm land offer criterion

The requirement in section 16(1)(f) of the Act does not apply to the Land in respect of the Transaction

5. Conditions of the Exemption

If requested in writing by the OIO, the Exemption Holder must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:

(a) the representations and plans made or submitted in support of the application for the Exemption; or

(b) the conditions of the Exemption.

6. Amendment or revocation of the Exemption

The Exemption and conditions of the Exemption may at any time be amended or revoked by the Overseas Investment Office in accordance with the provisions of the Act and Regulations.

7. Sanctions

The Act provides for civil and criminal sanctions for breaching the Act, failing to comply with conditions of exemption and failing to provide information required by the Overseas Investment Office. The Overseas Investment Office has an obligation to investigate and act upon alleged and suspected breaches of the Act.

8. Reasons for Exemption

The Land is being acquired by the Vendor under the Housing Act 1955 for purpose of housing development under the Government's Land for Housing Programme (**Programme**). Under the Programme the Vendor must follow a prescribed process to offer the Land for sale with conditions for development.

In Auckland, the Land must be offered to a pre-approved panel of developers on a priority basis to develop in accordance with the Programme's requirements for housing. The Exemption Holder is the first ranked developer on the Auckland panel of developers for low and high density housing development. This means that the Vendor must offer the Land to the Exemption Holder to purchase and develop in the first instance.

The Exemption Holder is an overseas person so has sought an exemption from the requirement in 16(1)(f) of the Act for the Vendor to offer the farm land or section 12 interest for acquisition by New Zealanders on the open market.

The purpose of farm land advertising criterion is to give New Zealanders an opportunity to try to acquire farm land.

The Vendor is not permitted to sell the Land to anyone other than the Exemption Holder unless the Exemption Holder declines to purchase the Land. The Vendor may only sell the Land subject to conditions for housing development and not for use as farm land. The Exemption Holder requires time to negotiate the terms of development with the Vendor before entering into a development agreement and a sale and purchase agreement. Any advertisement of the Land to New Zealanders generally would not be genuine in the meantime as the Vendor would not be able to accept offers from anyone other than the Exemption Holder.

In this case New Zealand investors will not have the opportunity to acquire the Land unless the Exemption Holder declines to purchase the Land. The Exemption Holder requires a 12-month exemption period to enable negotiations with the Vendor to determine if they will purchase the Land.

Advertising the Land will not realistically increase the opportunity for New Zealand investors to acquire an interest in farm land as the Land cannot be sold as farm land at present and can only be sold to the Exemption Holder in the first instance. Advertising would incur unnecessary expense, time and effort for both the Vendor and New Zealand investors who enquire with no prospect of success. It is therefore necessary, appropriate, and desirable in the circumstances to grant the Exemption.