

**Notice of Decision**

**Case: 202300032**

* + - 1. Decision Date

1 May 2023

* + - 1. Duration of the Exemption

The exemption in paragraph 4 applies to transactions entered into on or before 1 May 2026.

* + - 1. **Interpretation**
1. In this notice, unless the context otherwise requires:

**Act** means the Overseas Investment Act 2005

**Exemption** means the exemption in paragraph 4

**Exemption Holders** means Genesis and FRV and/or any entity established by Genesis and FRV, where FRV is the only overseas person with an ownership or control interest

**FRV** means FRV NZ1 Limited

**Genesis** means Genesis Energy Limited

**Land** means approximately 93 hectares of land at 126 Lauriston Barrhill Road, Lauriston, Canterbury, contained within Records of Title CB25A/963 and CB33F/115

**Qualifying Interest** means a leasehold interest in the Land being acquired exclusively or nearly exclusively for operating a solar farm for electricity generation

**Qualifying Transaction** means the acquisition of a Qualifying Interest by the Exemption Holders or a person where FRV is the only overseas person with an ownership or control interest

**Regulations** means the Overseas Investment Regulations 2005

1. 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).
	* + 1. **Exemption from farm land offer criterion under the Act**

The requirement in section 16(1)(f) of the Act does not apply in respect of an application for consent under the Act for a Qualifying Transaction.

* + - 1. **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 LINZ. LINZ has an obligation to investigate and act upon alleged and suspected breaches of the Act.

* + - 1. **Reasons for Exemption**

The purpose of the requirement to advertise farm land is to give New Zealand investors an opportunity to try to acquire farm land.

An exemption from this requirement may be granted if the decision maker considers that the overseas investment need not meet this requirement by reason of the circumstances relating to the particular overseas investment or section 12 interest or the nature of the land to which the section 12 interest relates.

An exemption may only be granted if there are circumstances that mean that it is necessary, appropriate, or desirable to provide an exemption, and the extent of the exemption is not broader than is reasonably necessary to address those circumstances.

Genesis and FRV intend to purchase assets and interests in certain solar farm assets intended to be utilised for a solar farm development on the Land and have sought an exemption from the requirement for farm land to be advertised.

In this case, an exemption is appropriate and desirable as:

* + - the Land has already been identified as suitable, and a resource consent has been issued for a solar farm development
		- the Landowners do not have an intention of leasing the Land for purposes other than for solar farm
		- if required to advertise, the interests that will be advertised are not interests in land that can be used for farming purposes, but rather interests in land to be utilised for solar farm development on the Land
		- solar farming is a temporary use of the Land that will co-exist with grazing, the Land can revert to an exclusively farming use should the Land no longer be needed for a solar farm
		- the Exemption is consistent with the principle that overseas investment should benefit New Zealand, noting the high importance the Government places on renewable energy
		- the interests are leasehold interests, therefore only a temporary divestment of the farm land. New Zealanders will not permanently lose the opportunity to acquire the Land as it will revert to New Zealand ownership at the expiry of the lease.

The relevant Ministers consider that the extent of the Exemption is not broader than is reasonably necessary as it is limited to specific properties and acquisitions for the purpose of developing a solar farm, only applies for a limited period of time, and the interests are leasehold interests only.