



To: Hon Dr Megan Woods, Associate Minister of Finance
Hon Damien O'Connor, Minister for Land Information

ASSESSMENT REPORT: Genesis Energy Limited and FRV NZ1 Limited

Date	13 October 2022	Classification	IN CONFIDENCE: Commercially sensitive
Toitū Te Whenua reference (report reference)	202200335 BRF 23-151	Deadline	11 November 2022 (being 20 working days after the date of this report)

Purpose

We seek your decision on an application for an exemption from the farm land offer criterion under section 20 of the Overseas Investment Act 2005 (Act).

Action sought

1. Review this report and consult with each other as desired.
2. Determine whether to grant the exemption as set out in **Attachment 1**, and if so, for which properties.
3. Indicate your decision on page 3.

Toitū Te Whenua Contacts

Name	Position	Contact	First contact
Pedro Morgan	Lead Advisor	04 460 2785	<input checked="" type="checkbox"/>
Daniel Mumford	Senior Solicitor	04 830 3959	<input type="checkbox"/>

A. Summary

1. Genesis Energy Limited (**Genesis**) and FRV NZ1 Limited (**FRV**) (**Applicants**) are partners in an unincorporated joint venture (**JV**) looking to develop a solar photo-voltaic farm (**Solar Farm Project**) on land that may comprise [s 9(2)(b)(ii)] rural properties in [s 9(2)(b)(ii)] (**Land**).
2. The Applicants have stated that the JV vehicle undertaking the Solar Farm Project will be an overseas person for the purposes of the Act.
3. The Applicants have applied for an exemption for all the Land from the requirement for farm land to have been offered for acquisition on the open market.
4. The Applicants seek an exemption because they claim that there are relatively unique circumstances applicable to the Solar Farm Project and the overall timetable and sequencing for its development, specifically that:
 - (a) proactively approaching farm owners to discuss acquiring an interest in their land for solar farm purposes is uncommon and distinct from the circumstances in which the advertising requirement is generally intended to operate (typically where a farm land owner proactively decides to sell the farm and actively advertises it for sale to prospective purchasers);
 - (b) until feasibility studies are undertaken, it is unclear what land interests and land areas (if any) will be required for the Solar Farm Project, and therefore it is unclear what land interests and land areas need to be advertised;
 - (c) the Applicants will face uncertainty and a commercially unacceptable risk if they are forced to undertake extensive feasibility studies without first acquiring a right to lease or purchase all of the land they may need for the Solar Farm Project;
 - (d) advertising the properties individually may jeopardise the entire project because [s 9(2)(b)(ii)] properties could be needed for feasibility and sustainability of the Solar Farm Project; and
 - (e) the exemption will, in effect, contribute to the advancement of a significant Government policy (being the advancement of renewable energy developments).
5. Additionally, the Applicants have noted that:
 - (a) in the case of a long-term lease, the existing property owners will continue to own the underlying Land. This means that New Zealanders will not have missed out on an opportunity to purchase the Land; and
 - (b) in the case of a freehold interest, more than 50% of the beneficial ownership of the Land will be held by (or on behalf of) New Zealanders. This is because Genesis is 93.84% New Zealand owned and it will hold a 60% share in the JV vehicle undertaking the Solar Farm Project, resulting in overall New Zealand beneficial ownership of approximately 56.3%.
6. For the reasons set out in this report, our recommendation is to **grant the exemption** in respect of *all* of the properties.
7. Section 20(9) of the Act requires us to publish your decision and the reasons for your decision on our website. Accordingly, we also recommend that you **adopt the reasons** set out in **Attachment 1**. If you do not agree with the reasons, or do not agree to grant an exemption in respect of all of the properties, then we recommend that you seek further advice about how to best document and publish your reasons.

Key Information

Applicants	Genesis Energy Limited and FRV NZ1 Limited
Landowners	Various, as set out in Attachment 2
Land	Acquisition of either a freehold or long-term leasehold interest in ^[s 9(2)(b)] rural properties in ^[s 9(2)(b)] as set out in Attachment 2
Application Type	Farm land offer criterion exemption (section 20)
Relevant Test	Section 20
Recommendation	Grant exemption for all ^[s 9(2)] properties for the reasons set out in Attachment 1

Assessment timeframe requirements

8. A decision is required by 16 November 2022 to enable the decision to be communicated to the Applicants in compliance with the prescribed assessment timeframe.

B. Decision

Decision about whether or not to grant an exemption to the farm land offer criterion

9. Grant or decline to grant the Exemption for the following properties:

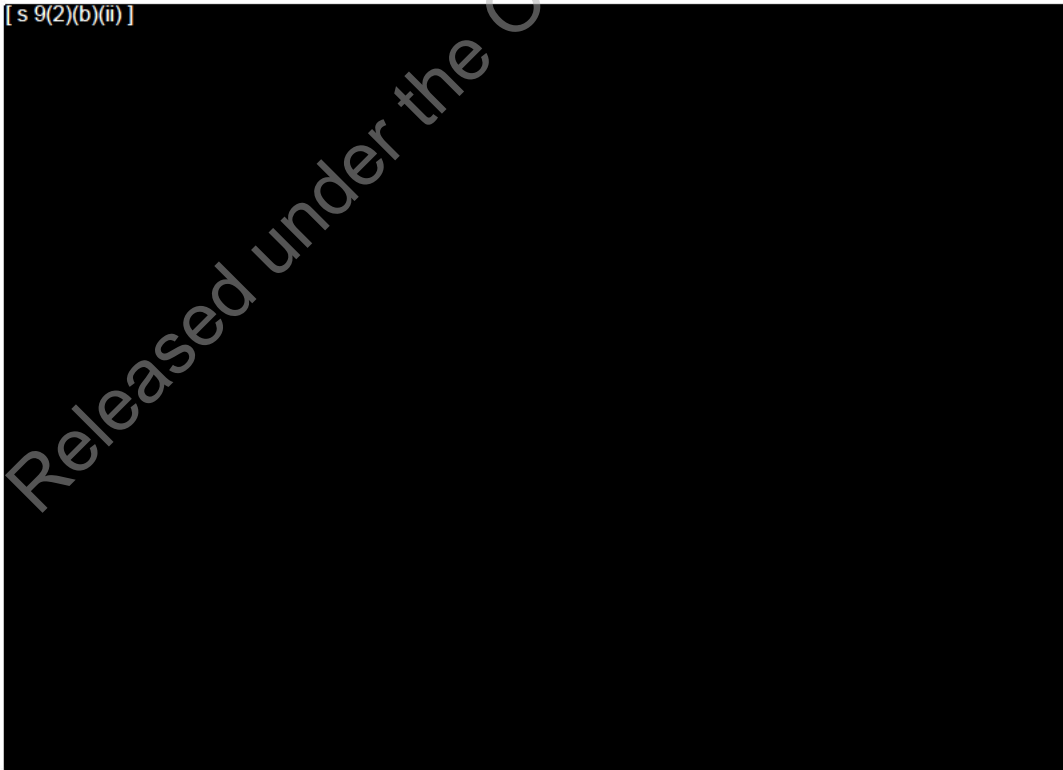
Hon Dr Megan Woods

Hon Damien O'Connor

Grant Decline

Grant Decline

[s 9(2)(b)(ii)]



10. If you agree to grant the Exemption for all of the properties, agree to the reasons for your decision as set out in **Attachment 1**:

Hon Dr Megan Woods

Hon Damien O'Connor

Agree

Disagree

Agree

Disagree

11. If you do not agree to grant the Exemption in respect of one or more properties, request further advice :

Hon Dr Megan Woods

Hon Damien O'Connor

Further advice

Further advice

Required

Not required

Required

Not required

Hon Dr Megan Woods

Hon Damien O'Connor

Date: / /

Date: 22/10/22

Released under the Official Information Act 1982

Key Information

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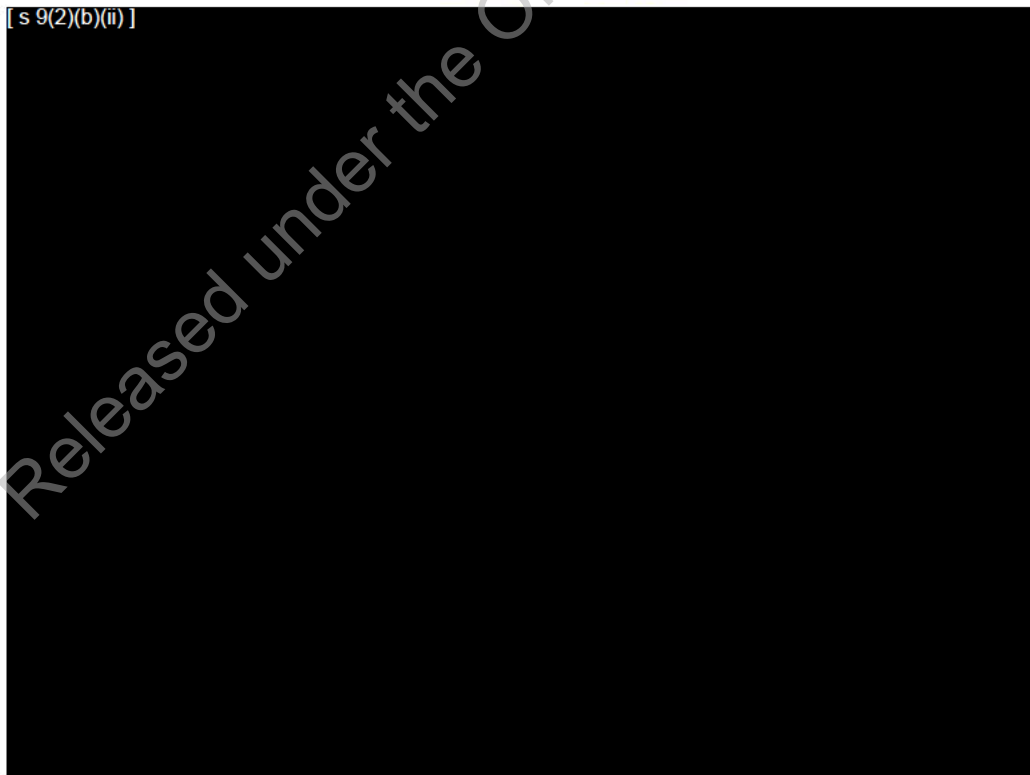
Hon Dr Megan Woods

Hon Damien O'Connor

Grant Decline

Grant Decline

[s 9(2)(b)(ii)]



10. If you agree to grant the Exemption for all of the properties, agree to the reasons for your decision as set out in **Attachment 1**:

Hon Dr Megan Woods

Agree

Disagree

Hon Damien O'Connor

Agree

Disagree

11. If you do not agree to grant the Exemption in respect of one or more properties, request further advice :



Hon Dr Megan Woods

Further advice

Required

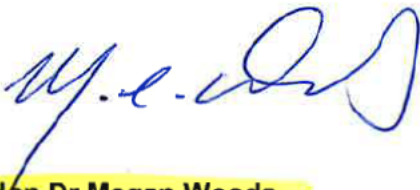
Not required

Hon Damien O'Connor

Further advice

Required

Not required



Hon Dr Megan Woods

Date: 31/10/2022

Hon Damien O'Connor

Date: / /

Released under the Official Information Act 1982

C. Background

12. The Applicants have applied for an exemption from the requirement in section 16(1)(f) of the Act that farm land be offered for acquisition by New Zealanders on the open market. The Applicants would like this exemption to apply to all of the Land.
13. The Applicants are parties to a JV established to identify and develop renewable energy projects in New Zealand, specifically grid or network-connected solar farms with capacity of at least 20MW. The Applicants also intend to set up project vehicles that will acquire, construct, own, and operate such solar projects.
14. The Applicants are looking to develop the Solar Farm Project on the Land. The Solar Farm Project will be approximately 200MW and generate about 350GWh per annum – enough to power more than 50,000 houses or 90,000 electric vehicles.
15. Genesis will have 60% of the Solar Farm Project and FRV will have 40%. These shares reflect the respective participating interests of the parties in the JV.
16. The Applicants have begun discussions with the owners of the [s 9(2)(b)(ii)] properties (**Landowners**). They would like the right to lease or purchase all of the Land before they undertake extensive feasibility studies.
17. **Attachment 2** sets out the details of the Land and the Landowners. It is unclear what parts of the Land will be suitable for the Solar Farm Project (the feasibility studies will resolve that). While the total area of the Land is approximately [s 9(2)(b)(m)] hectares, the Applicants say that the Solar Farm Project is only likely to require about [s 9(2)] hectares.
18. The Applicants would prefer long-term leasehold interests but they are open to freehold interests if any of the Landowners want to sell their property rather than lease.

D. Application of the Act

19. Farm land essentially means land used exclusively or principally for agricultural, horticultural, or pastoral purposes, or for the keeping of bees, poultry, or livestock.¹
20. Section 20 of the Act provides that the Minister may exempt a person or transaction from:
 - the requirement that farm land or farm land securities be offered to New Zealanders (section 20(1)(a));
 - the requirement that such offers be on the open market (section 20(2)(a)); or
 - any other requirement in the Overseas Investment Regulations 2005 (**Regulations**) about how farm land must be advertised (section 20(2)(b)).
21. While all decisions under section 20(1)(a) and section 20(2) of the Act have been delegated to Toitū Te Whenua,² Hon Dr Megan Woods has indicated that you wish to make the decision in this case.
22. You may only grant an exemption from the requirement to offer farm land to New Zealanders under section 20(1)(a) if you consider that:³
 - (a) the overseas investment need not meet the farm land offer criterion by reason of:
 - (i) the circumstances relating to the particular overseas investment or interest being acquired; or
 - (ii) the nature of the land (for example, its productive capacity);

¹ Section 6(1) of the Act.

² See Table A, row I, of the delegation letter dated 24 November 2021.

³ Section 20(1)(a) and (3) of the Act.

- (b) there are circumstances that mean that it is necessary, appropriate, or desirable to provide an exemption; and
 - (c) the extent of the exemption is not broader than is reasonably necessary to address those circumstances.
23. In considering whether a proposed exemption meets the applicable criteria, you must have regard to the purpose of the Act set out in section 3.⁴ This includes acknowledging that "it is a privilege for overseas persons to own or control sensitive New Zealand assets by—
- (a) requiring overseas investments in those assets, before being made, to meet criteria for consent; and
 - (b) imposing conditions on those overseas investments."
24. You may also have regard to any other factors that seem relevant in the circumstances.⁵

E. Applicants and proposed exemption

Applicants

25. Genesis is listed on the NZX. The New Zealand Government (via the Minister of Finance and the Minister for State Owned Enterprises) holds 51.23% (as at August 2022). The remaining 48.77% is currently held by a mix of shareholders from New Zealand (42.61%), Australia (5.41%) and other parts of the world (0.75%). As a result, Genesis is approximately 93.84% New Zealand owned (as at August 2022).
26. FRV is owned by FRV Financial Spain, S.L. (51%) and OMERS Furphy Parent B.V. (49%). FRV Financial Spain, S.L. is ultimately owned by a Saudi Arabian ^{s 9(2)} (a) and OMERS Furphy B.V. is a Canadian public pension fund. A company structure diagram for FRV is included in **Attachment 3**.
27. The JV provides that Genesis has a participating interest of 60% and FRV has a participating interest of 40%. All assets of the JV will be owned in these same proportions, including the JV vehicle undertaking the Solar Farm Project.

Land

28. **Attachment 2** sets out the details of the Land and Landowners. A map of the Land is also included.
29. The Land is currently largely used for dairy farming or pastoral purposes. All of the Land is sensitive land due to it being non-urban land over five hectares. Two of the properties also include parcels of land categorised as "lifestyle" in the relevant district valuation roll and three of the properties include the bed of a river.

Exemption requested

30. The Applicants are requesting a five year exemption from the farm land offer criterion under the Act in respect of the Land so that such advertising is not required.
31. Negotiations between the Applicants and the Landowners have now reached a point at which the parties would like to enter either agreements to lease (**ATLs**) or sale and purchase agreements (**SPAs**) in respect of the Land.
32. The Applicants are seeking the exemption because of the unique circumstances of the Solar Farm Project and the overall timetable and sequencing for its development.

⁴ Section 20(4)(a).

⁵ Section 20(4)(b).

33. If the requested exemption is not granted, the Landowners will need to collectively advertise all of the Land on the open market before any ATLS or SPAs can be entered into. The Applicants intend for these agreements to include a five-year condition period as well as a non-exclusive licence to undertake feasibility studies on the Land.

Circumstances of investment – Applicants proactively approached Landowners

Applicants' claims

34. The Applicants claim that the need to proactively approach farm owners to discuss the possibility of acquiring a leasehold or freehold interest in their farm (for the specific purposes of developing a solar farm, and in advance of assessing the feasibility of the land) is uncommon and distinct from the circumstances in which the advertising requirements are generally intended to operate (i.e. in circumstances where a farm owner is proactively seeking to divest freehold ownership of their farm).
35. The Applicants also claim that:
- (a) it is very unlikely that the Landowners will be willing or open to advertising the Land on the open market unless they are likely to receive the proposed consideration and commercial terms offered by the Applicants (on the assumption that all or part of the Land ultimately proves to be suitable for the Solar Farm Project); and
 - (b) the Landowners may be willing to lease the Land for the purposes of the Solar Farm Project in circumstances where they would be otherwise disinterested in granting a lease to a third-party (e.g. for farming purposes). For example, income from a solar farm may represent a diversification of income streams on the farm, or the Landowners may see appeal in the opportunity to be involved in a renewable energy project.
36. With the above points in mind, the Applicants expect a reluctance from the Landowners to advertise the Land on the open market (and in their small rural community) when they may have no general desire to lease or sell the Land to a third party.

Toitū Te Whenua response

37. The farm land advertising criterion is designed to ensure that New Zealanders have an opportunity to acquire farm land available for sale or long-term lease. If farm land is not advertised on the open market, New Zealanders may not have such an opportunity. It is a special privilege for overseas persons to own or control farm land.⁶
38. We accept, however, that the circumstances of the investment here are unusual and that imposing the advertising requirements may be unreasonable. The very specific land requirements needed for a solar farm mean that anyone (whether an overseas person or not) wanting to invest in such projects would have difficulty locating suitable land without proactively approaching land owners.
39. We also accept that the Landowners may be reluctant to advertise the Land on the open market if they have no general desire to lease or sell the Land to a third party. This situation is different from the usual farm land sale or long-term lease, and we accept that the Landowners may consider such advertising to not be genuine.
40. Finally, as noted by the Applicants:
- (a) in the case of a long-term lease, the Landowners will continue to own the underlying Land. This means that New Zealanders will not have missed out on an opportunity to purchase the Land; and
 - (b) in the case of a freehold interest, more than 50% of the beneficial ownership of the Land will remain with a sector of New Zealanders via Genesis.

Circumstances of investment – Uncertainty about land interests and land areas

⁶ See paragraph 21 of the Ministerial Directive Letter dated 24 November 2021.

Applicants' claims

41. The Applicants claim it is unreasonable to expect the Landowners to advertise the Land on the open market in circumstances where it is not clear what land interests or land areas are on offer, or whether the Solar Farm Project will even go ahead. Until the feasibility studies are undertaken, neither the Applicants nor the Landowners know what parts of the Land (if any) are suitable for the Solar Farm Project.

Toitū Te Whenua response

42. As noted above, while the total area of the Land is approximately [s 9(2)(b)(i)] hectares, the Applicants have stated that the Solar Farm Project is only likely to require about [s 9(2)(b)(i)] hectares. We acknowledge the difficulty of advertising land when unsure about the extent of land interests that will be needed.

Circumstances of investment – Unacceptable risk for Applicants

Applicants' claims

43. The Applicants claim that they would face a commercially unacceptable risk if they were forced to undertake feasibility studies (and incur the corresponding high costs) without first acquiring a right to lease or purchase all of the Land that may be needed for the Solar Farm Project. In this situation, the Landowners could sell or lease the Land to someone else (including the Applicants' competitors) or simply pull out of the transaction altogether.
44. As noted above, the Applicants also intend for the ATLS and SPAs to include licences allowing the Applicants access to the Land to undertake the feasibility studies.

Toitū Te Whenua response

45. We accept that it would be unreasonable to expect the Applicants to defer entry into the ATLS and SPAs until after the conclusion of the feasibility studies. Solar farms are still a relatively new concept in New Zealand and therefore companies looking to invest in such projects are likely to need sufficient data upfront. Without some level of certainty in return, companies may not be willing to incur the costs associated with extensive feasibility studies.
46. We also note that the Applicants are likely to have committed considerable resources to the Solar Farm Project already (given the negotiations with the Landowners, the associated paperwork, and the non-invasive testing on the Land). We consider it is reasonable that the Applicants seek confidence that the sale and lease transactions can proceed if the Land is found to be suitable for the Solar Farm Project.
47. We also consider that there are other ways in which the Applicants could secure rights to the Land without entering into ATLS and SPAs. For example, the Applicants could secure options to lease or purchase the Land, and would not need consent to do so provided the options were for less than ten years (or less than three years for residential land). However we also accept that this is not the structure the Applicants have chosen for these investments.

Circumstances of investment – All the Land may be needed for Solar Farm Project

Applicants' claims

48. The Applicants claim that individually advertising the [s 9(2)] properties that comprise the Land could jeopardise the entire Solar Farm Project because all of the Land may be needed to develop a feasible and sustainable solar farm of scale. The Applicants view the Land as a 'collective block' and have been engaging with the Landowners on a collective basis.

49. The Applicants understand that the Landowners are also approaching the transaction on a collective basis, such that the Landowners may only entertain offers to sell or lease their part of the Land if their adjoining neighbours are also doing the same.

Toitū Te Whenua response

50. We consider it is reasonable that the Applicants require a right to lease or purchase all of the Land at this point in time. Until feasibility studies are undertaken, it is unclear what parts of the Land (if any) will actually need to be acquired.
51. While the Applicants have advised that the Landowners have no general desire to lease or sell the Land to a third party, we accept that there is still a risk that advertising the properties individually could lead to some of the Land being unavailable for the Solar Farm Project. It is difficult to predict the nature of any alternative offers and therefore difficult to know whether or not the Landowners could be persuaded to sell or lease their property to a third party (including the Applicants' competitors).

Circumstances of investment – Advancement of significant Government policy

Applicants' claims

52. The Applicants claim that the Solar Farm Project is crucial to advancing the Government's goal of having 100% renewable electricity generation by 2030. It is therefore important to provide the Applicants with the necessary tools and flexibility required to pursue the development of projects like this.
53. If faced with high upfront costs and no certainty, the Applicants may be discouraged from pursuing the development of solar farms in New Zealand to the extent planned.

Toitū Te Whenua response

54. If the Solar Farm Project proceeds, we acknowledge that it is likely to contribute to the Government's goal of having 100% renewable electricity generation by 2030. As noted above, the Solar Farm Project is likely to result in the generation of 350GWh per annum – enough to power more than 50,000 houses or 90,000 electric vehicles.

F. Are the criteria for exemption met?

Circumstances of the investment or interest or nature of the land

55. You must be satisfied that the overseas investment need not meet the farm land offer criterion by reason of the circumstances relating to the overseas investment or interest or the nature of the land.
56. We consider that the overseas investment need not meet the farm land offer criterion by reasons of the circumstances relating to the investment.
57. As set out above, we acknowledge that there are relatively unique circumstances applicable to the Solar Farm Project and the overall timetable and sequencing for its development. These circumstances include that:
- (a) the Applicants proactively approached the Landowners due to the very specific land requirements needed for a solar farm. This was done on a collective basis. The Applicants have advised that the Landowners have no general desire to lease or sell the Land to a third party;
 - (b) until feasibility studies are undertaken, it is unclear what land interests and land areas (if any) will be acquired for the Solar Farm Project. It is difficult to advertise land for sale or lease if you do not know what interests or areas are actually on offer;

- (c) it would be unreasonable to expect the Applicants to defer entry into the ATLS and SPAs until after the conclusion of the feasibility studies because they understandably want some level of certainty before incurring additional costs;
 - (d) the Applicants require a right to lease or purchase all of the Land at this stage. There is a risk that advertising the properties individually could lead to some of the Land becoming unavailable, and thereby jeopardising the Solar Farm Project; and
 - (e) if the development proceeds, the Solar Farm Project will contribute to the Government's goal of having 100% renewable electricity generation by 2030. To help advance this goal, it is important to provide sufficient flexibility to pursue the development of projects such as this.
58. In addition to the arguments raised by the Applicants, we also consider that advertising the Land risks alerting the Applicants' competitors to the location (and possible availability) of the Land. This increases the risk of competitors attempting to secure the Land, relying on due diligence undertaken at the Applicants' cost.
59. We also acknowledge that:
- (a) in the case of a long-term lease, the Landowners will continue to own the underlying Land. This is the Applicants' preferred form of acquisition and means that New Zealanders will not have missed out on an opportunity to purchase the Land. Any future sale of the freehold interest in the Land to an overseas person could only occur after being offered for sale on the open market (and the overseas person obtaining consent under the Act); and
 - (b) in the case of a freehold interest (if any of the Landowners want to sell rather than lease), more than 50% of the beneficial ownership of the Land will remain with a sector of New Zealanders via Genesis.
60. Finally, we note that any land used for solar farming can revert to an exclusive farming use without too much difficulty.

Is the exemption necessary, appropriate, or desirable?

61. You must consider the circumstances are such that it is necessary, appropriate, or desirable to provide an exemption.
62. For the reasons set out above, we consider that the circumstances of the investment are such that it is appropriate and desirable to provide an exemption. Without an exemption, the Solar Farm Project may not be able to proceed.

The extent of the exemption

63. An exemption must not be broader than reasonably necessary to address the particular circumstances.
64. We consider the exemption requested by the Applicants is appropriate in the circumstances because it:
- (a) only applies to the Land if it is being acquired exclusively or nearly exclusively for solar farming. The reference to 'nearly exclusively' acknowledges that small parts of the Land might not be developed for solar farming. The resulting consent(s) can contain further conditions (like an obligation to dispose of the Land) that would apply if the Land was not used for solar farming;
 - (b) only applies to the Land (i.e. the [s 9(2)(b)(ii)] properties described in the application and set out in **Attachment 2** of this report);
 - (c) can only be relied upon by the Applicants and any entities where the only overseas owner is FRV (noting that this allows New Zealanders to co-invest with the Applicants without requiring a fresh advertising exemption);

- (d) expires after 5 years; and
 - (e) does *not* exempt any overseas person from the requirement for consent under the Act.
65. We have considered imposing an area limit on the exemption (for example, allowing the acquisition of up to 600 hectares of land only) but we do not consider such a limit to be either necessary or desirable. The uncertainty about the area of land required (and each individual landowner's willingness to lease or sell) mean that the Applicants need flexibility to lease or purchase any or all of the Land. Any purchase will still need consent before it can proceed, and conditions of such a consent could be used to require the Applicants to dispose of surplus land if necessary.

Purpose of the Act

66. The purpose of the Act is to acknowledge that it is a privilege for overseas persons to own or control sensitive New Zealand assets. The farm land advertising requirement ensures that New Zealanders have the chance to buy farm land before it is acquired by an overseas person.
67. As noted above:
- (a) in the case of a long-term lease, the Landowners will continue to own the underlying Land. This is the Applicants' preferred form of acquisition and means that New Zealanders will not have missed out on an opportunity to purchase the Land. Any future sale of the freehold interest in the Land to an overseas person could only occur after being offered for sale on the open market; and
 - (b) in the case of a freehold interest (if any of the Landowners want to sell rather than lease), more than 50% of the beneficial ownership of the Land will be held by (or on behalf of) New Zealanders via Genesis.
68. Given the high importance the Government places on renewable energy, the exemption would also be consistent with the principle that overseas investment should benefit New Zealand (noting that the Applicants will need consent under the benefit test before acquiring an interest in the Land, even if an advertising exemption is granted).

Other factors

69. You may have regard to any other factors that seem relevant in the circumstances. We have not identified any relevant factors for this application other than the ones already discussed above.

G. Conclusion

70. We consider that the criteria for granting a farm land advertising exemption are met and therefore our recommendation is to **grant the exemption** in respect of all ^S9(2) properties.



Pedro Morgan
Lead Advisor (Overseas Investment Office)
Date: 13-Oct-2022

ATTACHMENT 1 - Proposed Exemption



Notice of Decision Case: 202200335

1 Decision Date

[Date] 2022

2 Duration of the Exemption

The exemption in paragraph 4 applies to transactions entered into on or before [date] 2027.

3 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 the land described in the Appendix

Qualifying Interest means a leasehold or freehold 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

- (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 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.

5 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 when required to do so. Toitū Te Whenua has an obligation to investigate and act upon alleged and suspected breaches of the Act.

6 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 develop a solar farm 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 interests are likely to be leasehold interests only (a freehold interest will not be acquired unless an existing property owner expressly wants to sell their property rather than lease it)
 - in the case of a leasehold interest, the freehold ownership of the Land will not change as a result of the transaction, and any future sale of the freehold to an overseas person could only occur after being offered for sale on the open market
 - in the case of a freehold interest, approximately 56% of the beneficial ownership of the Land will remain with a sector of New Zealanders via Genesis (as at August 2022, Genesis is 93.84% New Zealand owned with a 51.23% share held by the Government)
- solar farming is a temporary use of the Land, and the Land can revert to an exclusively farming use should the Land no longer be needed for a solar farm
- there are commercial considerations that make advertising less practical for solar farm developments than for other developments
 - there is often a need to proactively approach existing property owners due to the very specific land requirements needed for a solar farm (the existing property owners may have no general desire to lease or sell their land to a third party)
 - until feasibility studies are undertaken, it is often unclear what land will be suitable for solar farm purposes and therefore what land will need to be advertised
 - investors are likely to face uncertainty and a commercially unacceptable risk if they are forced to undertake extensive feasibility studies without first obtaining a right to acquire the land needed for their proposed solar farm (there would be nothing preventing the existing property owners from selling or leasing their land to a third party, including the investors' competitors)
- 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 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 likely to be leasehold interests only.

Appendix – Land to which this Exemption applies

[To be withheld under section 9(2)(b)(ii) of the Official Information Act 1982]

[s 9(2)(b)(ii)]



Released under the Official Information Act 1982

ATTACHMENT 2 – Land and Landowners

[s 9(2)(b)(ii)]



Released under the Official Information Act 1982

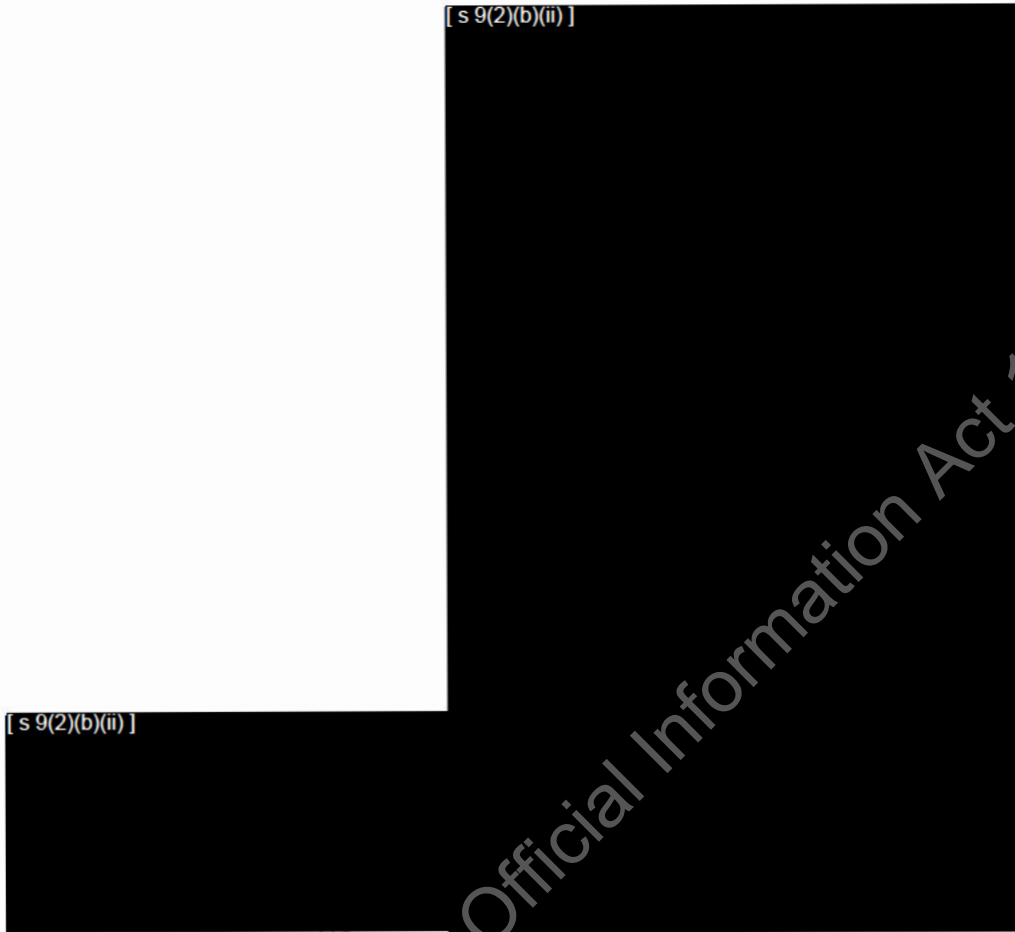
[s 9(2)(b)(ii)]

Map of Land

[s 9(2)(b)(i)]

Released under the Official Information Act 1982

ATTACHMENT 3 - Company Structure Diagram for FRV NZ1 Limited



Released under the Official Information Act 1982