
Exemption from the farm land offer criterion

Read this decision carefully - you must comply with all the conditions. If you do not, we may revoke your exemption.

Notice of Decision Case 202300661

1. Decision Date: 14 December 2023

2. Interpretation

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

Act means the Overseas Investment Act 2005.

Exemption means the exemption stated below.

Exemption Holder means the shareholders of Quay Infrastructure Limited being the Cashmore Family Trust, Raymond Robert Lambert, Ketura Lambert, Colin Cashmore; and a small number of NWL employees (who collectively hold ~1% of the shares in NWL under the terms of an employee share scheme).

LINZ means Toitū Te Whenua Land Information New Zealand.

Regulations means the Overseas Investment Regulations 2005.

Land means 84.0280 hectares of land at Whangarei contained in Record of Title NA 134A/49 and 7.1167 hectares of land at Kaipara contained in Record of Title 709125.

Qualifying Transaction means the acquisition of the Land by overseas person/s.

(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).

3. Duration of the Exemption

The Exemption expires on 14 December 2026

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 decided on or before 14 December 2026.

5. Conditions of the Exemption

(1) If requested in writing by LINZ, 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 LINZ.

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

8. Reasons for Exemption

The Exemption holders are the vendors selling a waste management business.

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.

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

- the Land is being sold as part of the wider waste management business and is only a small component of the assets being sold;
- the Exemption Holder submits the usual forums for advertising farm land are not appropriate for advertising a waste management business and has employed PwC to undertake the sale; and
- it does not exempt any overseas person from the requirement for consent under the Act.

LINZ considers the extent of the Exemption is not broader than is reasonably necessary as it is limited to two specific properties which are part of a significantly larger transaction; and the investment can still equally be acquired by New Zealanders.