

Farm land offer exemption for farm land offer criterion

Read this exemption carefully - you must comply with all the conditions.

Exemption

Decision date	29 November 2024
Case	202400547
Exemption	<p>In respect of any application for consent under the Act to acquire an interest in the Land within the Timeframe, the following transactions are exempt from the farm land offer criterion in section 16(1)(f) of the Overseas Investment Act 2005 subject to the Conditions set out below:</p> <ol style="list-style-type: none"> 1. Acquisition of any direct or indirect interest in the Naseby Land by Harbour Infrastructure Limited (company number 8186636); 2. Acquisition of a leasehold interest of 30 years, with up to 6 rights to renew for additional 5-year terms, in the Naseby Land by Naseby Project Limited (company number 9272403); and 3. Acquisition of a leasehold interest of 35 years in the Tatuani Land by Tatuani Solar Farm Limited (company number 9272384).
Naseby Land	Approximately 75 hectares of land located at 136 Fenessy Road, Naseby, Otago (recorded in Records of Title OT10B/788 and OT9C/1041).
Tatuani Land	Approximately 60.39 hectares of land located at 3311B State Highway 26, Tatuani, Waikato (recorded in Record of Title SA40A/761).
Land	The Naseby Land and Tatuani Land together.
LINZ	Toitū te Whenua Land Information New Zealand
Timeframe	This exemption expires on 29 November 2029.

Conditions

Your Exemption is subject to the conditions set out below. You must comply with them. The Overseas Investment Act 2005 (**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.

If requested in writing by LINZ, Harbour Infrastructure Limited, Concord Green Power Limited and/or Concord Bay Limited 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

Reasons for exemption

The purpose of the requirement to advertise farm land is to give New Zealanders an opportunity to acquire farm land on the open market.

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.

Harbour Infrastructure Limited intends to acquire a freehold or leasehold interest in the Naseby Land. Tatuanui Solar Farm Limited and Naseby Project Limited intend to lease the Land. The Land is proposed to then be used for the development and operation of two solar farms. An exemption has been sought from the need to advertise the Land because it may jeopardise the solar farm development by providing insight into well-advanced agreements with landowners.

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

- the underlying freehold land will be owned by New Zealanders to whom it will revert once the leasehold estates expire;
- 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 sell, lease or grant any interest to their land to a third party);

- often solar farm investors face uncertainty and risk which may discourage further renewable energy investment, if they are forced to undertake extensive feasibility studies without first obtaining a right to acquire the land needed for the proposed 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; and
- the Land will be temporarily used for a solar farm and for grazing. The Land could also revert to an exclusive farming use should the Land no longer be needed for a solar farm.

LINZ considers that the extent of the Exemption is not broader than is reasonably necessary, as it is limited to interests acquired for the purpose of developing a solar farm (which will likely be of high benefit to New Zealand given the high importance the Government places on renewable energy).