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Manager
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The Treasury
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BY EMAIL

Dear Sir

IMPLEMENTING FOREIGN INVESTMENT REFORMS – WATER RIGHTS

Thank you for the opportunity to provide input on the exposure drafts of the *Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015* and the *Register of Foreign Ownership of Agricultural Land Bill 2015*.

The Government is to be applauded for the introduction of these two Bills. We would recommend however that each Bill be extended to include the regulation of acquisitions of and dealings in water which would mirror the regulation of acquisitions and dealings in land.

At the time the *Foreign Acquisitions and Takeovers Act 1975* was introduced, water rights ran with the land. Since the implementation of the National Water Initiative reforms, the ownership and tradability of water rights have been decoupled from the previously attendant land..

Like access to land, access to water is a necessary element of agricultural production. Who owns our water rights, in their various legal guises, is as important to know as who owns our agricultural land rights. In many parts of Australia, such as in New South Wales to the west of the Great Dividing Range, the water rights previously attendant to parcels of agricultural land attract higher prices than the land itself. Historically, those water rights have been a necessary element in the setting of prices for both agricultural businesses and the land upon which they sit. That this is an accurate statement of the comparative values attributed to water rights and to such agricultural land can be readily discerned from enquiries of the various Offices of State Revenue.

It follows that thresholds for notification and approval of agricultural land transactions involving foreign persons should be calculated inclusively of, and not separately from, their water rights component. Water rights are not land, in a legal sense, and thus it is submitted that each Bill be amended to treat water rights as land for all relevant purposes.

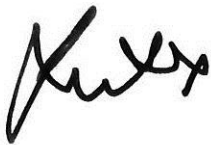
Alternatively, it is submitted that each Bill be amended to deal with water rights separately but along similar lines to land rights.

We have mentioned that water rights exist in various legal guises. These include rights granted under State or Territory legislation, contractual rights granted by irrigation corporations, or rights that flow from holding a share in an irrigation corporation. Whatever legal guise these water rights may take, their economic effects are similar, particularly in light of the scarcity of water resources in Australia.

The regulation of acquisitions of and dealings in water rights would, we submit, not be comprehensive or economically rational without covering the field. Likewise, the regulation of acquisitions or dealings in agricultural land would, we submit, not be comprehensive or economically rational without addressing the water rights components of an agricultural land transaction.

We commend these submissions to you.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Daren Armstrong', written in a cursive style.

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