OUR TEAM IS PROUD TO CONNECT THE BEST AUSTRALIAN BEEF TO THE WORLD

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Bryce Williamson
Policy Framework Unit
Foreign Investment Division
The Treasury
Langton Crescent PARKES ACT 2600

Dear Bryce,

Consolidated Pastoral Company (CPC) welcomes the opportunity to provide the Treasury with feedback on the reforms to Australia's foreign investment review framework that came into effect on 1 January 2021.

CPC has gone through two whole of company sale and purchase processes that have involved FIRB approval and several individual property transactions that have required FIRB approval.

The company was sold by the Packer family to the British private equity fund, Terra Firma, in 2009. Between 2015 and 2019 CPC sold, purchased and leased properties that required FIRB approval. In 2020 CPC was sold to a consortium of Terra Firma's major shareholder, the Hand family and CPC management.

Both sales were the subject of a review by the Foreign Investment Review Board [FIRB] and required formal approval by the Federal Treasurer.

While not having direct experience of the impact of the latest reforms on foreign investment, and therefore the wider economy, CPC welcomes the opportunity to have input into this review based on our experience in the recent past.

Consolidated Pastoral Company [CPC]

CPC is a foreign owned, Australian based and Australian managed Agrifood business.

The company operates a portfolio of 9 cattle stations across northern Australia comprising around 3.5 million hectares with a carrying capacity of around 300,000 cattle. It also operates, and 90 percent owns, two feedlots in Indonesia.

CPC is divided into two parts. The Northern Territory/Western Australia operations encompass properties in the Northern Territory and Western Australia including Newcastle Waters, Dungowan, Kirkimbie, Bunda and Carlton Hill Station.

The focus for this group is predominantly live export and breeding high quality composite cattle for the CPC Queensland backgrounding operations.

The Queensland operations include Wrotham Park, Allawah and Isis Downs. Wrotham Park is predominantly a commercial breeding property and Allawah's focus is stud breeding operations. Isis Downs is a mixture of commercial breeding operations plus fattening cattle.

This submission focuses on five of the issues identified in Treasury's consultation paper. They are:

- Implementation.
- Microeconomic analysis.
- Fees.
- Other matters.

<u>Implementation</u>

Treasury invited comment on:

- Whether the updated FIRB website and Guidance Notes have aided investors' understanding of the new foreign investment framework and investors' obligations under the framework.
- Whether the Treasury's stakeholder engagement efforts have aided investors' understanding of the new foreign investment framework and investors' obligations under the framework.
- Whether the Transitional Guidance Note, and the Treasury's implementation efforts during this period, assisted in navigating the adjustments on 1 January 2021.

The FIRB website, the transitional Guidance Note and Guidance Notes lay out in very clear terms the new foreign investment framework and investors obligations under the framework.

In particular, the application check list helps facilitate a disciplined application that addresses two key issues:

- Ensures the applicant has a clear understanding of the process to be followed by the FIRB; and
- Enhances the likelihood that the application is properly aligned with the assessment process followed by Treasury officers.

It is CPC's experience that the development of an FIRB application that is clear, accurate and covers all the required information saves both time and money for the applicant.

It also ensures that direct engagement between the applicant and FIRB officers is productive for both parties, again in terms of time and effort.

In our view both the content and the layout of your webpage facilitates that outcome.

<u>Macroeconomic analysis</u>

The Treasury correctly states that foreign investment plays an important and beneficial role in the Australian economy.

CPC notes the Treasurer's statement that reforms to the foreign investment framework were designed to ensure that Australia remains open to foreign investment and the economic benefits it provides, whilst also strengthening Australia's ability to ensure foreign investment is not contrary to the national interest, particularly national security.

Treasury has invited comment on:

- What investors' key considerations are when choosing to invest in Australia, and where foreign investment screening fits among these considerations.
- The impact that COVID-19 and the international investment environment has had, or is having, on foreign investment inflows into Australia.
- Whether, or how, the reforms have affected Australia's attractiveness as a destination for foreign investment.

Foreign investment has played an important role in the development of agriculture in Australia generally and the northern pastoral industry in particular.

Foreign investment creates jobs, improves productivity, enables the transfer of new technologies and connects Australian businesses to global supply chains.

It is CPC's view that Australia remains one of the world's most attractive investment destinations, particularly for agriculture.

There are investment opportunities, particularly in Northern Australia, that cannot be realised from domestic savings alone.

In our view the key issues for foreign entities assessing investment opportunities are:

- a stable democracy;
- a strong rule of law;
- a highly-skilled and highly-educated workforce; and
- a strong and well managed economy.

Investing in agriculture is generally a long-term strategy but without access to the data on foreign investment patterns in recent time CPC cannot comment on the impact of shocks such as COVID 19.

<u>Fees</u>

The Government first introduced fees for foreign investment applications in late 2015. As part of the foreign investment reforms, the Government determined that foreign investors, not Australian taxpayers, should continue to bear the costs of administering the foreign investment regime.

Treasury states the revised fees framework introduced at the beginning of this year was also intended to be fairer and simpler for investors.

Treasury has invited comment on:

- Whether the new fees framework affects investor decisions on investing into Australia.
- Whether the new fees framework affects when and how investors apply for foreign investment approval; and
- Whether there is a need for further guidance on the fee's framework and, if so, what that guidance should address and in what format.

CPC refers the Treasury 's attention to the Senate Economics Committee report on the Foreign Investment Reform (Protecting Australia's National Security) Bill 2020 [Provisions] and Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2020 [Provisions] Bill tabled in November last year.

Many submissions to that Senate inquiry commented on the fee structure suggesting it was disproportionate to the cost of administering the regulatory system, did not reflect the nature of assessments, was not equitable, and operated more like a tax.

The Explanatory Memorandum to the Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2020 [Provisions] Bill Fees Imposition Bill, stated 'all fees imposed are a tax'.
It stated further, fees are not levied on a cost recovery basis 'and neither are they intended to be so levied.'

This contrasts with the Foreign Acquisitions and takeovers [Fees Imposition] bill 2015.
The Explanatory Memorandum to that Bill stated:

"The imposition of fees helps fund the costs of considering applications, the introduction of a specialised investigative and enforcement area within the Australian Taxation Office (ATO), improvements in the collection of data about foreign investment in Australia, and an increase in the resources dedicated to the investigation of alleged breaches of the Act.

"The introduction of fees is also consistent with the Australian Government's policy that the full cost of regulating a particular sector should generally be recovered from that sector."

The Productivity Commission went to that matter in a presentation to that Senate Economics Committee inquiry. The Commission said aligning fees for the assessment of foreign investment proposals with the actual cost of administration—was intended when the fees were announced.

It stated the fees have been set at levels that are out of proportion with the cost of delivering the regulatory regime and are thus taxes, not a fee for service.

The Commission said that while fees on large commercial transactions were likely to be immaterial, the relatively much higher fees on small agricultural investment applications had the potential to affect growth in regional communities.

CPC is of the view these FIRB application fees, which it concedes are taxes, could discourage potential foreign buyers, decrease competition in the rural property market and drive down the capital wealth values of Australian farming family farms, their borrowing capacity and their prosperity.

CPC is concerned that, particularly in relation to acquiring interests in agricultural land, the proposed fee increases will be detrimental to the capital wealth, borrowing capacity and prosperity of Australian farmers.

The impact of fees on investment in agriculture should be the subject of further investigation.

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Other matters

Treasury have invited comment on:

- Whether any other elements of the reforms, which are not already discussed at a consultation question above, have had a significant impact on stakeholders.
- Whether any other elements of the foreign investment framework, which are not already discussed at a consultation question above, have a significant impact on stakeholders and, if so, what those impacts are and how they could be addressed.

CPC notes the reforms are supported by additional funding for the Treasury to upgrade its foreign investment case management system and uplift its capability as the regulator of foreign investment in Australia.

We welcome these additional resources.

Finally, the key to the effective administration of government regulations or programs is competent staff and more importantly applicant having timely and direct access to staff. This is particularly the case in relation to FIRB as an application for approval is generally being progressed in parallel with a large-scale commercial transaction.

It has been CPC 's experience that Treasury officers are both conscious of and responsive to this commercial overlay.

Kind Regards,

Troy Setter

Chief Executive Officer