



14 March 2022

Foreign Investment Division  
Treasury  
Langton Crescent  
Parkes ACT 2600

Email only: [FIRBStakeholders@treasury.gov.au](mailto:FIRBStakeholders@treasury.gov.au)

Dear Treasury

**Re: Register of Foreign Owned Water Entitlements**

Murrumbidgee Irrigation Limited (**MI**) appreciates the opportunity to make comments on the changes to the foreign investment framework, specifically, whether foreign acquisitions of rural water entitlements should require approval under the foreign investment framework.

MI is one of the largest private irrigation companies in Australia servicing over 3,000 landholdings owned by over 2,500 customers, the majority of whom are shareholders in the Company. Our core business is water delivery. We provide irrigation water and drainage services to the Murrumbidgee Irrigation Area (**MIA**) (approximately 378,911 Ha). However, and unlike many Irrigation Infrastructure Operators (**IIO**), MI does not operate a water trading platform.

Majority of MI customers hold their water entitlements on our various water access licences. When a trade is initiated by a customer or the customer's agent, MI will process that transaction in good faith and as directed by the parties, provided the selling party has sufficient water available to complete the transaction. Beyond this, MI does not make any assessment on a party's ability to fulfil the transaction, or whether the party has all necessary approvals to transact.

**Foreign-owned water entitlements**

MI is aware that as at 30 June 2021, 11 per cent of water entitlements on issue in Australia were owned by foreign persons, with almost all that water used exclusively in the agriculture sector. This figure has increased gradually over the last five years and MI expects it to grow with increased foreign investment into Australian agriculture.

When preparing its report into the Register of Foreign Owned Water Entitlements, the Productivity Commission recognised that: *"Foreign investment provides capital for businesses to grow, introduces new technologies, practices and technical expertise and enables Australians to enjoy higher standards of living than they otherwise would."*

MI agrees with these comments and appreciates the value foreign investment has in underpinning future capital in the agricultural market. Investment in agriculture via the use of water for on farm production enables regional productivity for places such as the MIA. However, MI also appreciates a large portion of the broader community has some discomfort with foreign investment generally,

which is often linked to other water market concerns, as identified by the ACCC's Water Market Inquiry Final Report.<sup>1</sup>

### **Transparency of the water market**

As an IIO, MI is in no position to comment on whether the Register of Foreign Owned Water Entitlements helps maintain community confidence in Australia's approach to foreign investment. However, MI does appreciate the Commission's comments that the Register is not designed to address all concerns around the water market, such as:

- the potential for large water holders and brokers to manipulate prices; and
- a perception that the taxation system disadvantages domestic water holders compared with foreign owners.

These much broader issues were instead considered in the context of the ACCC inquiry into water markets in the Murray Darling Basin, with several recommendations made in the Final Report to increase transparency. In particular, Recommendation 4 requires the use of trade identifiers on trade forms as a way to protect market integrity and maintain market confidence, therefore allowing the regulator (likely the Inspector General) the ability to detect misbehaviour and take appropriate enforcement action.

MI supports providing the community with a level of information broad enough to provide reasonable market transparency without compromising privacy or impeding commercial decision making. For the purposes of the question asked of this submission, a balance needs to be struck between supporting foreign investment into Australian agriculture and protecting the national interest. Whether the introduction of an approval process under the foreign investment framework can achieve this is something beyond the scope for MI to determine. However, and most importantly for MI, the introduction of any new regulatory compliance should not come at the cost of IIOs and its shareholders.

### **Costs for IIOs**

MI, like many IIOs, operates as a cost recovery business. We are a private company, and our shareholders are the farmers that use the irrigation water in the MIA. MI is fully aware of its obligation to inform its shareholders of their responsibility to provide information regarding any foreign ownership of water status. This is done through various means, including through a fact sheet published on our website. However, as a cost recovery business, our staff are employed to meet the needs and demands of our customers. These needs and demands do not include the collecting of information, or making of any determinations on, the acquisition of foreign ownership of water entitlements. Collection of this information is for the benefit of the Government and the broader Australian community and therefore, we should not be expected to fund additional resources to meet any regulatory approval process for that purpose.

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<sup>1</sup> ACCC Final Report, Murray Darling Basin Water Markets Inquiry, 26 March 2021

Given it is an objective of the foreign investment framework is to assist governments and the broader Australian community to understand the level of foreign ownership of water access entitlements, the responsibility and cost of any regulatory approval process involved in a foreign person acquiring water entitlements should sit with the foreign person, not with IIOs. Further, the cost of ensuring compliance with the process should sit with the Commonwealth. IIOs should simply process transactions on behalf of the buyer and seller under the assumption that the transacting parties have met all regulatory requirements without having to make any enquires themselves.

## **Conclusion**

MI acknowledges that a balance needs to be achieved between supporting foreign investment into Australian agriculture and providing transparency and oversight to the public over foreign investment into water entitlements. However, and for the reasons set out above, MI questions whether an approval process for the acquisition of water entitlements will provide more value beyond the recommendations of the ACCC's Final Report. Further, and more importantly, the costs of any additional regulatory compliance should not come at the expense of IIOs, which then begs the question what price the public may be willing to pay to achieve the additional oversight proposed by the Discussion Paper.

We thank you for the opportunity to provide these comments.

Yours sincerely

A handwritten signature in black ink, appearing to read "Brett J", with a long horizontal flourish extending to the right.

**Brett Jones**  
Chief Executive Officer