



Ms Tanja Cvijanovic
Executive Director
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
One National Circuit
BARTON ACT 2600

Email: helpdesk-obpr@pmc.gov.au

Dear Ms Cvijanovic

REGULATORY IMPACT STATEMENT – FINAL ASSESSMENT SECOND PASS

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for the Register of Foreign Ownership of Water Entitlements (Water Register).

The Government committed to introducing a Water Register during the passage of the *Register of Foreign Ownership of Agricultural Land Act 2015* (Agricultural Land Register Act). This legislation provides that the Agricultural Land Register will lapse if legislation giving effect to a water register has not passed Parliament by 1 December 2016.

In this case, the Government has already committed itself to one policy approach in a public and accountable way. By providing for a water register in the Agricultural Land Register Act, the Australian Parliament has made the decision that greater transparency about foreign ownership of water entitlements should be delivered via a register. Therefore, the RIS focuses on the alternative implementation options that are consistent with this policy approach.

I believe the RIS meets best practice requirements and is consistent with the ten principles for Australian Government policy makers.

In particular, the RIS addresses the seven RIS questions:

- *What is the problem?* – The problem is a lack of transparency about foreign ownership of water entitlements. While foreign investment is important for Australia's prosperity, there is concern among some segments of the community about the level of foreign ownership of water entitlements, and its impact on water prices. Without reliable information on the extent of foreign ownership of water entitlements, it is difficult to address or allay these concerns.
- *Why is government action needed?* – Government action is needed to increase transparency about the level of foreign ownership of water entitlements to assist in informing the Government and the community about emerging investment trends and inform the policy debate.
- *What policy options are you considering?* – Two policy options have been considered: Option 1 is to maintain the status quo, Option 2 is to develop a register of foreign ownership of water entitlements (various implementation options were considered).

- *What is the likely net benefit of each option?* – As Option 1 will retain the status quo, there is no net benefit of pursuing this option. Option 2 will create the highest net benefits, as implementing a register will address the policy objectives while minimising the regulatory burden on impacted individuals. On average, the estimated annual regulatory costing of the preferred approach is around \$100,000.
- *Who will you consult and how will you consult them?* – Treasury, the Department of Agriculture and Water Resources and the Australian Taxation Office (ATO) conducted public consultation on the proposed implementation options in February 2016 and an exposure draft bill in August 2016. Targeted discussions were held with key stakeholders such as the National Farmers Federation, the Minerals Council of Australia, legal stakeholders and numerous representatives from the irrigation industry.

Overall stakeholders were supportive of the register as long as the regulatory burden was minimised. This feedback has informed the assumptions used in the RIS for regulatory costings. Further consultation will take place on administrative options to reduce the regulatory impact of the register.

- *What is the best option from those you have considered?* – The preferred option is to introduce a Water Register through amendments to the Agricultural Land Register Act. Aligning the legislation and reporting requirements with the existing Agricultural Land Register provides the highest net benefits while minimising the regulatory burden. This approach also reduces duplication and confusion for industry stakeholders, many of whom are already required to register their interests in agricultural land with the ATO.

Using the regulatory burden measurement framework, on average, the estimated annual regulatory costing of the preferred approach is around \$100,000. For all reporting periods, the Treasury portfolio has reported net compliance cost reductions and there is no reason why the portfolio will not continue to deliver on its red tape reduction targets this year, in line with the Government's regulatory reform agenda.

- *How will you implement and evaluate your chosen option?* – The Register will be implemented by amending the Agricultural Land Register Act to include registration requirements for water entitlements. The Commissioner of Taxation will have general administration of the Register. Once the Water Access Entitlement Register has been established and there is data available, the Government is committed to reviewing the treatment of water entitlement assets under Australia's foreign investment framework.

I am satisfied that the RIS addresses the concerns raised in your letter of 23 September 2016. Specifically:

- An outline of the status of the RIS at each major decision point in the proposal's development has been included.
- The concerns raised by the community have been elaborated upon. References to media articles setting out the concerns of farmers and irrigators that speculation in water entitlements is increasing water prices making it difficult to irrigate crops. These concerns are likely to be exacerbated by broader concerns about global food and water security. However, there is limited evidence to support claims that foreign investment in water entitlements is impacting water prices.
- Conclusions made in the RIS utilise more evidence and are more nuanced. The discussion on the Agricultural Land Register reflects the variety of views expressed in response to the release of the first report. In concluding on the effectiveness of the Water Register, the RIS notes that increased transparency will lead to a more informed debate.

- The regulatory costs of this proposal have been clarified by expanding the costings over 10 years and explaining why foreign ownership in the sector was assumed to remain stable across the costing period.

Accordingly, I am satisfied that the RIS now meets best practice consistent with the Australian Government Guide to Regulation.

I submit the RIS to the Regulatory Reform Division for formal assessment.

Yours sincerely

A handwritten signature in black ink, appearing to read "John Lonsdale", followed by a period.

John Lonsdale
Deputy Secretary
Markets Group