



3 September 2020

Manager  
Policy Framework Unit  
Treasury  
Langton Cres  
Parkes ACT 2600

**Via email:** [FIRBStakeholders@treasury.gov.au](mailto:FIRBStakeholders@treasury.gov.au)

**Re: NSW Farmers' comments on major reforms to the Foreign Investment Review Framework**

The NSW Farmers' Association ('NSW Farmers') welcomes the opportunity to comment on the proposed major reforms to the Foreign Investment Review Framework.

NSW Farmers' is Australia's largest State farming organisation representing primary producers across all agricultural commodities. Farmers across New South Wales contribute significantly to the State and national economies with NSW food and fibre production representing around one quarter of Australia's annual total agricultural output.

NSW Farmers considers that a comprehensive structure for initial review coupled with transparent and ongoing compliance processes are important for effective decisions regarding, and oversight of, foreign ownership. This should apply to all agricultural land, food processing infrastructure, and water interests. It is important to the Australian food security that primary producers, particularly family farm businesses, remain competitive in the Australian farming sector against large corporations and foreign investors.

NSW Farmers supports a foreign investment review framework that includes:

- a public register of foreign ownership that is publicly available and searchable;
- a (\$5 million cumulative) threshold for assessment of agricultural land; and
- a well-resourced and dedicated unit within Treasury to ensure ongoing monitoring, compliance and enforcement of foreign investment approval conditions.

NSW Farmers' supports reform to broaden the capture of foreign investment for review, increase monitoring and compliance, and strengthen and increase records kept in the foreign ownership register.

NSW Farmers' seeks additions to the testing requirements of the Foreign Investment Review Board (FIRB) to include assessment of social, environmental and economic impacts in line with community expectations. Additionally we recommend that all foreign owned agricultural land, food processing infrastructure and strategic national assets be recorded on a public foreign ownership register, including outcome of any assessment against social, economic and environmental impacts.

NSW Farmers' broadly supports the proposed changes to strengthen monitoring, compliance and enforcement in relation to foreign investment, including the establishment of harsher penalties. The reform documents indicate that the Treasurer, Commissioner of Taxation, or another Commonwealth body will be responsible for these actions.

To achieve this we consider that within the government, an independent unit with legislated authority to undertake monitoring and policing of compliance with the conditions of all foreign investments approved by the Treasurer should be established and appropriately resourced.

NSW Farmers' supports the creation of a single Register of Foreign Ownership of Australian Assets, including ownership of both agricultural land, food processing infrastructure, and water. To ensure transparency we

**NSW Farmers' Association**

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strongly urge the establishment of a public register rather than the register proposed in the Bill. This would require assets to be identified individually as agricultural land, food processing infrastructure, or water, rather than a listing of the entity only.

To further aid transparency and accountability against approval conditions an independent unit should be established for foreign ownership monitoring and compliance purposes. This unit should be responsible for the ongoing maintenance of a foreign investment register, rather than any existing government body appointed by the Treasurer.

In March 2020, the Australian Government announced that the monetary screening thresholds for all foreign investments subject to the *Foreign Acquisitions and Takeovers Act 1975* would be reduced temporarily to \$0 to ensure appropriate oversight during the coronavirus crisis. We note that the current reforms do not deal with changes to monetary screening thresholds, and that these will be reinstated in September. NSW Farmers' seeks a permanent lower threshold for the assessment of agricultural land of \$5 million cumulative.

As part of ongoing foreign investment reform, NSW Farmers' strongly urges the Australian Government to inquire into the effects of foreign ownership and vertical integration in agriculture on farm viability, and to investigate the tax paid and dividend repatriation by foreign companies. We seek that foreign investment in Australia be taxed at the same rate as domestic taxation and that every effort be made to reduce and eliminate transfer pricing in both goods and services.

NSW Farmers recommends that further safeguards are put in place to manage foreign investment in Australia's strategic industries and primary commodity reserves to secondary positions behind controlling Australian interests. The Association believes there should be:

- support for the right of foreign interests to participate in equity ventures in Australian agriculture;
- safeguards in place, through Australian competition legislation, to guard against harmful monopolistic control of any part of the production or marketing chain;
- similar access available for Australians trading internationally or participating in foreign projects;
- restrictions on future foreign investment in land in Australia so that such investment is restricted to leasehold where appropriate, with suitable restrictions or controls where possible; and
- reciprocal rights with foreign countries in respect of investment in infrastructure, and agricultural land and water, in foreign countries where Australian residents seek it.

As primary producers rebuild following drought, bushfires and the COVID-19 pandemic, any impediments within the control of Government must be minimised to ensure opportunities for productivity gains and equitable access to markets – both new and established. To aid this recovery it will be critical that the foreign ownership review framework is improved and strengthened to prevent detrimental impacts of inappropriate foreign investment, such as a failure to adhere to conditions on ownership.

NSW Farmers seeks a public, transparent foreign ownership register, and supports stronger monitoring and compliance measures to ensure that any conditions placed on foreign owned assets are adhered to as required.

Should your staff require additional information, your office is invited to contact Kathy Rankin, Policy Director on 02 9478 1008 or [rankink@nswfarmers.org.au](mailto:rankink@nswfarmers.org.au).

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Wilson'.

Peter Wilson  
Chair, Business, Economics and Trade Committee

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