

Register of foreign ownership of water access entitlements proposed

Late last year, the Government implemented wide-ranging reforms of Australia's foreign investment regime. We summarised these reforms in [our December briefing note \(recently updated\)](#). The next stage of these reforms is the proposed establishment of a register of foreign ownership of water access entitlements (WAEs).

Why a register?

Currently water rights information is held by the states and territories under different registers, not all of which record foreign ownership. The new WAE Register will provide more complete and accurate information to the Government and community about foreign ownership. Better information is thought to lead to better informed water and foreign investment policy as well as identification of emerging investment trends.

This is similar to the reasons for establishing the [Agricultural Land Register late last year \(see briefing note\)](#). In fact, the similarities in the two registers led the Government to propose that the existing Agricultural Land Register be expanded to include WAEs. The Government expects that this will reduce the regulatory burden and compliance costs on foreign investors and result in a consistent set of timeframes, penalties and reporting obligations.

What water rights will be covered?

The current proposal is that foreign persons must register WAEs only, not all water rights. A WAE is a 'perpetual or ongoing entitlement to exclusive

access to a share of the water resources of a water resource plan area'. The Government's [explanatory paper](#) compares a WAE to a right to take a percentage of the capacity of a tank, not the actual volume of water that could be allocated from that tank. Water allocations will be excluded under the current proposal, as will irrigation and water use rights. All WAEs will be covered, irrespective of volume or monetary value or industry.

What industries will be affected?

The new register will capture WAEs used by all industry sectors, not just the agricultural sector as is the case with the current Agricultural Land Register. Investments in the mining, manufacturing and electricity and gas sectors may trigger registration requirements given that these industries are all large water consumers.

What information will be collected?

The WAE Register will collect:

- details of the foreign investor, including name, address, nationality and whether the investor is a foreign government investor;
- the level and type of foreign interest; and

Key issues

- A register is being established to record information on foreign ownership of Water Access Entitlements (WAEs).
 - The Register is expected to begin on **1 December 2016**.
 - All WAEs are caught regardless of size, value or industry.
 - Existing foreign investors will have 6 months to register during a 'stock-take' period (yet to be announced).
 - New foreign investors will have 30 days to register post-acquisition.
- details of the WAE, including WAE number, water resource area/system, WAE type (reliability/security, surface – regulated/unregulated or groundwater) and volume entitlement.

Information from the WAE Register will only be published in aggregate at the catchment, region, state and national level. Information about individual holders will be kept confidential.

When will the new register start?

The Government is still considering this proposal. Submissions on its consultation paper close on Friday 11 March 2016. The Government has indicated it will have the WAE Register in place by 1 December 2016. Once it is set up, new foreign

investors will have 30 days to register post-acquisition of a WAE. Existing foreign investors will have six months to register their WAEs during a 'stocktake' period, which will be announced by the Government.

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