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Department of  
**Natural Resources and Mines**

Water Access Entitlements Register Consultation Working Group  
Foreign Investment and Trade Policy Division  
The Treasury  
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Dear Sir or Madam

With reference to the release of the Consultation Paper on the establishment of a National Register of Foreign Ownership of Water Access Entitlements, I welcome the opportunity to provide the attached submission from the Queensland Department of Natural Resources and Mines (the department).

In contrast to land ownership, Queensland does not have any requirements to disclose foreign holdings of water entitlements and the department does not object to the Australian Government establishing such a register.

The department believes there are several implementation and operational issues that should be considered to ensure the register does not impede the effectiveness of Queensland's water trading framework or unnecessarily burden water market participants, and suggests that further discussion is required with regard to any potential cost of implementation.

Should you have any further enquiries, please contact Mr Aaron Stasi, Water Markets (Strategic Water Programs), Department of Natural Resources and Mines on telephone 07 3137 4243.

Yours sincerely

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## Queensland Department of Natural Resources and Mines submission to the Consultation Paper on the National Register of Foreign Ownership of Water Access Entitlements

The Department of Natural Resources and Mines (DNRM) welcomes the opportunity to input into the Australian Government's Consultation Paper and provides the following general comments:

- Water access entitlements (WAE) in Queensland include:
  - 'water allocation' titles that are separate from land; recorded on Queensland's Water Allocations Register (WAR) which is managed by the State's Registrar of Titles; are fully tradeable; and may be held by anyone including non-landowners.
  - 'water licences' that are attached to land; managed via DNRM databases and not a titles register; are not tradeable; and must be held by landowners (with some exceptions). Some specific water licences may also be relocated to reattach to other land.
- The Queensland Titles Registry currently collects foreign ownership information for land but not foreign holdings of water allocations.
- In principle, DNRM does not object to the Australian Government's proposed national register of foreign ownership of WAE, as it does not duplicate and is unlikely to impede upon the management of Queensland's conveyance framework for water allocations. This framework is well respected and understood, providing very good security to water title holders and encouraging market transactions and facilitating the borrowing of finance against such assets.
- Consideration must be given to how the proposed register's implementation and operation align with the **Intergovernmental Agreement on a National Water Initiative (NWI)**, especially in relation to outcomes that seek to facilitate the operation of efficient water markets (such as minimising transaction costs for market participants, including investors) as well as broader Australian and Queensland Government objectives to reduce and simplify regulatory and reporting burdens. The register should therefore be implemented and operate in a way that does not lead to confusion, delays or a loss of confidence in Queensland's water market arrangements.
- While supportive of the proposed register applying to uses of water for all purposes and not just water for agriculture (as this reduces complexity in monitoring and compliance), the Australian Government should be mindful that the monitoring of foreign ownership may be regarded as being inconsistent. For example, land owned by a foreign person for a purpose other than agriculture is not tracked at the national level (but it is in Queensland), yet water that is held by a foreigner to be used for any purpose will be monitored at a national level. This differential targeting by the proposed foreign ownership of water register and the existing registers for foreign agricultural land and foreign residential land creates the potential for investor confusion.
- It is important to be aware of the different terminology in relation to WAE across Australia and the need to ensure that this does not lead to confusion for water market participants. To illustrate, a Queensland 'water allocation' is a permanent authority to take water and is akin to a NWI WAE, whereas other jurisdictions generally refer to water allocations (as defined in the NWI) as 'an amount of water assigned to a WAE in a given season'. If NWI water allocations are to be excluded from the proposed register (which is supported by DNRM), then this intent needs to be very clearly explained to foreign investors active in the Queensland water market.
- Although the proposed register will operate under a 'self-reporting' model, in relation to any post-compliance verification with state and territories such as data reconciliation, the Australian



Government should be aware of the potential complexities associated with compliance stemming from the different types of WAE in Queensland. To illustrate:

- water licences transfer with the conveyance of the land title, and under Queensland's *Water Act 2000* a transferee automatically becomes the holder of that entitlement. As this happens automatically, some landowners may not be aware of the need for formal and additional investor notification for the purpose of the proposed register i.e. for both agricultural land and for water.
- transfers of water allocation titles however, occur deliberately via the WAR—not automatically—and notification requirements would therefore be more obvious to foreign investors.
- It is understood that in relation to existing compliance activities for the Agricultural Land Register, the Australian Treasury currently liaise with Queensland's Office of State Revenue (OSR). Similar arrangements may suffice for the transfer and lease of Queensland water allocations; however, information pertaining to water licences is held within a DNRM administrative database and there is no interaction with OSR or the Queensland Titles Registry.
- More clarity is therefore needed on the potential compliance needs that this proposed register may create, before ascertaining whether or not pertinent information is available on DNRM's database for water licences, and if so, whether its extraction is currently possible. Any potential costs in relation to this matter, and for any additional liaison that may be required with the Titles Registry and/or OSR for water allocations, are expected to be borne by the Australian Government.
- The public dissemination of information contained on the proposed register introduces additional but related complexities. To illustrate, reporting metrics on the total nominal volume of water licences held by foreign persons may be possible, but it will be problematic in attempting to report (for example) total monetary value per megalitre, as these entitlements are attached to land and do not exist within a market. The 'value' of a water licence forms part of the unimproved value of the land title to which it is attached. Reporting a monetary value of foreign holdings for water allocations is more straightforward; however, in thin water markets there may be privacy implications and the Australian Government should also be aware of the potential to distort the price in such markets.