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Dear Sir

**STRENGTHENING AUSTRALIA'S FOREIGN INVESTMENT FRAMEWORK –
SUBMISSION: ACQUISITIONS OF RURAL LAND**

Thank you for the opportunity to comment on the options paper on the proposed changes to the foreign investment framework in relation to residential real estate and agriculture.

Given our areas of interest we have limited our comments to the issues relevant to the foreign ownership of Australian agricultural land and agribusinesses.

Proposal

In connection with the Government's policy of reducing the screening threshold for acquisitions of rural land and associated agribusiness the Government should consider putting in place an **annual programme for acquisitions of rural land and associated agribusiness** similar to the existing annual acquisition programme for urban land.

A plan of this type would substantially assist our ability to consolidate and grow but would not undermine the Government's policy objective, because it is consistent with how the Government currently administers foreign investment. Importantly it provides the Government with the necessary oversight about the character of the investor and the nature of the proposed investment in rural land or agribusiness to ensure that the proposed transactions are not contrary to Australia's national interest.

A rural annual programme would provide foreign companies with an opportunity to invest in rural land and agribusiness, without the administrative burden and potentially uncompetitive position of making acquisitions, no matter their size, conditional on receipt of FIRB approval.

We agree on the need for objective **definitions of agribusiness** and on the need for certain first stage processing functions to be identified as being within the definition.



Background – Wellard

Wellard is a world leader in the production and distribution of livestock, meat and grain. It is based in Perth, Western Australia, where also its majority shareholders lives.

Its two largest subsidiaries are Wellard Rural Exports Pty Ltd, Australia's largest livestock exporter and ship owner, and Wellard Agri Ltd, a large mixed farming land owner and operator specialising in the production of grains, legumes and livestock.

Wellard Rural Exports has supplied quality dairy and beef cattle and sheep and goats to the world for more than 35 years, and its investment in the live export industry is without peer. Headquartered in Fremantle, Western Australia, the company's operations cover every aspect of the export chain, including feed milling, livestock aggregation, road transport, feedlot facilities throughout Australia and modern shipping.

The company's flagship carrier, the MV Ocean Drover (formerly the MV Becrux), is a purpose-built livestock carrier capable of carrying 75,000 sheep or 18,000 cattle to major markets around the globe. She was commissioned in 2002.

Two, technologically advanced, purpose-built vessels, the MV Ocean Swagman and the MV Ocean Outback, were launched in 2010. They offer unparalleled levels of safety for the livestock, crew and vessel, and can transport 7000 cattle, 25,000 sheep, or a combination of both.

Wellard's abattoir, Beaufort River Meats, processes up to 2500 sheep and lambs a day, enabling Wellard to meet customer demand for both livestock and chilled and frozen meat.

Wellard Agri owns and operates eight farms covering 35,700 hectares across three principal agri-hubs. The two northern hubs are located at Dongara and Watheroo in Western Australia's central midlands and one is located at Kojonup in the Great Southern region of WA.

The Dongara hub is home to The Grange, a 14,500 hectare property which is considered one of Western Australia's blue chip farming properties.

The remaining landholding being more than 21,500 hectares, in total planting 23,500 hectares to a variety of grains and legumes. The other 6,100ha is devoted to sheep and cattle production, including the Hyfield Poll Merino stud at Kojonup. In addition, Wellard leases an additional 13,500ha for livestock and grain production.

Wellard Agri also has operations in the farm machinery sector, through management of the CLAAS Harvest Centres at Esperance, Katanning, Wongan Hills and Geraldton for the Landpower range of farm machinery.

For more information visit www.wellard.com.au.

Introduction

We are concerned that an unintended consequence of the Government's policy may be that foreign companies (particularly those based in Australia who like us are foreign by dint of shareholding) will be disadvantaged in their capacity to transact in the rural land market on a level playing field, increasing the costs compliance for both us and FIRB.

We believe that this cost to the Government and the economy could be minimised relatively simply. We support the suggestion that foreign companies who are involved in the acquisition of rural land and associated agribusinesses be permitted to apply for an exemption certificate (as already exists in relation to urban land). Under this proposal foreign companies like Wellard would be permitted to apply to FIRB for “prior” approval for the acquisition of rural land and associated agribusinesses up to a certain amount each year.

Under the proposed changes, the time and cost associated with preparing and submitting a FIRB approval and obtaining consent are significant, particularly in the context of small and multiple rural land acquisitions and having regard to current values. In particular, the new threshold will disproportionately impact on the possible acquisition of small parcels of rural land by companies like us.

For example, under the proposed changes, if Wellard was offered the purchase on a single paddock worth let’s say, \$ 10,000, next door to our existing farming operations, we would be required to seek FIRB approval. Given this is a relatively immaterial acquisition, the requirement for FIRB approval would require a disproportionate expense of time and money, and associated delay, in completing what should be a relatively straightforward transaction between a willing vendor and purchaser.

In addition, the requirement to obtain FIRB approval for acquisitions of rural land and associated agribusinesses will mean that any agreement by Wellard to acquire rural land or agribusiness will need to be conditional on obtaining FIRB approval. This conditionality may impact on a seller’s willingness to sell the land to us, especially if it involves small farmers in remote communities, and will impact on the timing for the sale of the land, extending any completion of the transaction by at a minimum 30 days.

These factors are likely to negatively impact on the ongoing investment in rural land and associated agribusinesses by companies like ours who have existing significant investments and 35 years of successful operations in Australia and are committed to investment in Australia (see above).

Proposed Solution

Wellard understands that there is precedent for exemptions from obtaining individual FIRB approval in the acquisition of urban land.

Consistent with the position for urban land, we suggest that sub-regulation 3(h) be extended to apply to rural land and agribusinesses. This proposal will only require amendment to the regulations and not the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

This proposal would provide the Government with the necessary scrutiny as to the investor having regard to the character of the investor and its track record of investment in Australia.

We understand that FIRB has been reluctant to grant Annual Programmes for urban land without a considerable history of acquisitions. Consistent with the approach for urban land and the Government’s policy for rural land and agricultural assets, applications for an Annual Programme for rural land and agribusinesses would be considered having regard to the applicant’s previous investment in Australia, the nature of that investment and the applicant’s existing operations in Australia, including for example that applicants like Wellard are headquartered and managed in Australia.

Approval for larger transactions on a case by case basis and having regard to the national interest could still occur. The Annual Programme for rural land and agribusiness acquisitions (as is the case for urban land) may be granted subject to conditions. For example, the Annual Programme may not permit a foreign company to make a single acquisition in excess of the \$252 million threshold.

The proposal would enable the Government to monitor compliance and to obtain data about the acquisitions. As is the case with the Annual Programme for urban land, a successful applicant under the Annual Programme for rural land or agribusinesses would need to provide an Annual Programme Report describing the property and assets acquired and type, the date of contract, the date acquired, the nature of the interest in the land (including leases) and the consideration paid. Further, we could be required to report each acquisition to the ATO as part of the national land register.

This suggestion meets the policy objectives of scrutiny without discouraging foreign investment and in particular would provide:

- the Government with the necessary oversight about the character of the investor and the nature of the proposed investment in rural land to ensure that the proposed transactions are not contrary to Australia's national interest; and
- companies like ours with an opportunity to invest in rural land and agribusiness, without the administrative burden and potentially uncompetitive position of making acquisitions conditional on receipt of FIRB approval.

Definition of Agribusiness and Agricultural Land

The Government has also indicated that it will introduce a new \$55 million screening threshold (based on the value of the investment) for investments in agribusinesses but the line for rural land value and associated agribusiness is not always clear. Presumably the value of an agribusiness ought to exclude the value of associated freehold rural land for the purpose of calculating the threshold.

We support the use of that term referenced to the Australian and New Zealand Standard Industrial Classification (ANZSIC) codes but believe it might be helpful to explain how this works more clearly, for instance is meat processing or cattle transporting intended to be covered?

It would seem to us that the definition should capture all primary production businesses as well as certain first stage downstream businesses beyond the farm gate (for example, meat processing and the distribution of agricultural products). We can see an argument that it should encompass businesses that just transform agriculture products but that would include for instance breweries or pasta manufacturers who do not grow grain but produce pasta, or large operators who produce animal feed but buys in their entire product. Ultimately it is probably the case that the Government will need to understand philosophically which industries they intend capturing and then use Regulations under the Act to identify the activities within the policy especially since these industries and their description will likely change over time.

Additionally, we support the suggestion to amend the Act to replace the definition of 'rural land' with an alternative definition of 'agricultural land' that more accurately ties the definition to the policy objective and the ordinary meaning of the term.

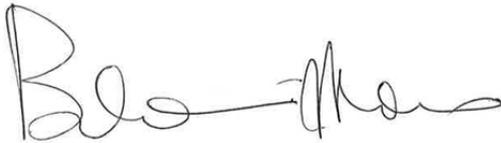
Conclusion

Thank you for considering this submission.

We would be delighted to discuss the details of our proposal with you further so that the proposed changes to Australia's foreign investment framework achieve their desired objectives with respect to agricultural land and agribusinesses, while also reflecting the Government's desire that Australia is "open for business".

We believe this proposal meets both those goals.

Yours sincerely



Mauro Balzarini
CEO & Managing Director
Wellard Group Holdings Limited