



Division Head
Foreign Investment Division
The Treasury
Langton Crescent
PARKES ACT 2600
Email: ForeignInvestmentConsultation@treasury.gov.au

Thursday 2 March 2017

Dear Sir,

Subject: CICL response to draft Register of Foreign Ownership of Water or Agricultural Land Rules 2017 and the draft Water Registration Form.

Coleambally Irrigation Co-operative Limited (CICL) is an Irrigation Infrastructure Operator in southern NSW and it holds a number of Water Access Licences (WAL) issued by the NSW Government under the *Water Management Act, 2000*. Our Members own CICL Water Entitlements (Irrigation Rights) and Shares.

CICL welcomes the exclusion of its Conveyance WAL from the register. However, under the legislation and the draft Rules CICL will be required to monitor foreign ownership of its water entitlements and shares because CICL holds a small WAL for groundwater which is not subject to Irrigation Rights.

CICL emphasises that its capacity to monitor its ownership status is dependent on its Members informing CICL if they are foreign-owned. CICL encourages the ATO to continue to explore ways to alert Irrigation Infrastructure Operators in respect of their foreign-ownership where the Office holds relevant information.

The following comments are based on the draft forms and have been developed with reference to CICL's Water Access Licence Certificates and its Water Entitlement and the Share Certificates issued to its Members.

CICL also notes that in some cases, Members will not have access to their Water Entitlement Certificates as these documents are often held by their financier and/or solicitor – this will further complicate CICL's reporting.

Water Entitlement Type

- The form refers to Irrigation Rights - whilst CICL's Water Entitlements meet the definition of an Irrigation Right, CICL's forms and certificates refer to Water Entitlement and this is the language used by CICL's Members when they buy or sell entitlements or use it for the purpose of financing. CICL suggests the form be altered to refer to Irrigation Rights (Water Entitlements issued by IIOs).

- The form refers to a Lease being a contractual right. Irrigation Rights are also referred to by the irrigation industry as contractual rights, but they are not a lease. CICAL also notes that where the entitlement is leased there is not separation into type of right leased. Is this the intention to just capture leases of Water Access Entitlements and Irrigation Rights, but not distinguish between the two? The ATO should also be aware that the leaseholder may not have access to the information required to complete the proposed form.
- The form does not seek information about the Class or Category of Water Entitlement - whilst CICAL is not advocating further 'granularity', the ATO needs to be aware of this omission.
- In NSW, the Certificate of Title is a WAL, which in turn has a number of shares or units. CICAL suggests that the related text be amended to read Certificate of Title (WAL) to avoid confusion by those required to report.

Issuing entity type

- In NSW, the Government WAL licences are not issued by a State Water Authority.
- The drop down should include Government as one of the options not just State Water Authority because in NSW, WALs are issued by Government, under the NSW Water Management Act, not WaterNSW.

Entitlement number/identifier

- This works for CICAL's Members which have access to a WEN number on their Water Entitlement Certificate (Water Entitlement No.)
- The entitlement number reference for NSW Government water entitlements is the WAL number, NSW also has a Certificate of Authentication Code, and this Code alters when the WAL Certificate is updated - increased clarities required to allow NSW WAL holders to report correctly.

Water source

- There is inconsistency in the description of water systems in each State e.g. there is no separation of surface and groundwater in NSW however in Victoria there is.
- The NSW systems are available from the NSW Water Register at the following link <http://www.water.nsw.gov.au/water-licensing/registers>.
- Being consistent with the State registers may be an advantage to the ATO as this would provide more useful information.
- The notes imply that CICAL Members will need to provide the Local Government name rather than water source, presumably with reference to their Rate Notice. CICAL questions why the form doesn't request the Irrigation Infrastructure Operator be identified; this could then easily link back to the water system, providing more useful information. It may also assist with ATO assisting operators understand their ownership status.

Volume

- The reference to ML should be clarified; one Water Entitlement equals one ML when there is a 100 percent announced allocation. In addition as noted above NSW WAL issue unit shares in a water source.

% Ownership

- It is assumed this means the percentage of the licence which is foreign owned, but this not clear.

Sector usage

- CICL questions the value of the information and veracity of information that will be collected under this section. CICL also questions its relevance to the Register and does not consider this information is required by the legislation.
- In terms of value and veracity, CICL notes:
 - o Water use by sector changes over time and between seasons.
 - o Water use on a licence may include multiple uses; the form does not appear to contemplate this.
- There are important agricultural industries that are not segregated e.g. dairying not segregated from other stock and intensive animal farming such as poultry, piggeries and feedlots. Intensive horticulture could be separated into permanent and annual.
- An Irrigation Infrastructure Operator does not currently fall into the usage categories provided. If CICL was foreign owned it would therefore be selecting "other".

General comments /questions

- There is no place on the form where the name of the holder of the licence is requested, CICL assumes this information is provided elsewhere in the registration process.
- In CICL's case, if it was to be confirmed as Foreign Owned, it is assumed use of the Water Entitlements which are not subject to Irrigation Rights is to be reported; this should be made clear in supporting material.
- The structure of the forms appears to be based on a single licence. In CICL's case, it holds a number of WALs of different categories and this would not be uncommon. Does this mean separate forms need to be completed for each WAL (it is not possible to amalgamate WALs of different categories, and similarly CICL's Water Entitlement Certificates are for a single Class of Water Entitlement)? It would be better if a single form could accommodate registering holdings of multiple WAL categories and or Irrigation Rights.
- To minimise errors, the drop down boxes could be linked – for example: Water Access Entitlement →NSW→Water system, names in NSW Register.

If you have any questions in relation to this submission please contact Bronwyn Vearing, Company Secretary.

Yours sincerely

John Culleton
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Coleambally Irrigation Co-operative Limited