

Submission to the Productivity Commission
Inquiry into the
Register of Foreign-Owned Water
Entitlements
by the
Communist Party of Australia (Marxist-
Leninist)



Preamble

In responding to the invitation to the public to offer submissions to the Productivity Commission's Inquiry into the Register of Foreign-Owned Water Entitlements, the CPA (M-L) acknowledges that the following matters are outside the scope of the inquiry:

1. Whether or not there should have been the commodification of water that led to the existence of a market in tradeable water entitlements;
2. Whether or not that market should have been opened to non-consumptive speculators in general, and foreign entities in particular.

To ensure that our submission to this inquiry can not be interpreted as an acceptance of the water market and of foreign investment in it, we emphatically state:

1. Our Party is totally opposed to the commodification of water that led to the existence of a market in tradeable water entitlements;
2. Our Party is totally opposed to the opening of that market to non-consumptive speculators in general, and foreign entities in particular.

Response to inquiry

The Treasurer has established the following three points as the scope of the inquiry.

To:

- assess whether the information provided in the Report delivers on the policy objectives of the scheme of increasing transparency of foreign ownership of water entitlements;
- identify the direct and indirect costs and benefits associated with maintaining the Register and producing the Report; and
- identify the direct and indirect costs borne by foreign owners of water entitlements to ensure compliance with the Act.

Point 1

The Register fails to increase transparency of foreign ownership of water entitlements in several significant ways:

1. Access to information in the Water Register is currently restricted to certain Commonwealth Government Ministers and their departments. There are proposals for access to be extended to officers in other jurisdictions and other countries. However, one of the purposes of the Register is to promote more informed public debate. This requires all information in the Register to be accessible to Australian researchers and the Australian public. The scope of the Report should be enlarged to reflect this.
2. The Australian Tax Office (ATO) which manages the Register defines "foreign persons" for the purposes of the Register according to three criteria. One relates to the per centage of interest in an entitlement of a foreign corporation or foreign

government. This is set at 20 per cent or more. This differs from the ATO's standard of 10 per cent used to compile foreign direct investment statistics. Any foreign water entitlement holder with less than 20 per cent investment in an entitlement is not captured in the data. This is not conducive to greater transparency and must be changed.

3. The confidentiality provisions of the ATO in respect of its data prevent the identification of individual investors. This is also contrary to informed public debate, particularly in respect of a foreign investor's social license to operate here with the consent of the Australian community. For example, the largest known foreign water entitlement holder is the Canadian Public Sector Pension Investment Board (PSP). Towards the end of last year, it became one of the top shareholders of the controversial US security contractor, Palantir Technologies, after its recent IPO. PSP's massive purchase of water entitlements for the growing of almonds (for export in the main), is controversial in its own right, and that controversy is now compounded by its investment in Palantir. PSP is known because of media interest in its purchase of water entitlements, but who are the other foreign owners, and what is their track record in terms of social and environmental responsibility? Australians need to be able to access this information.

Point 2

We have no comment on this point beyond stating that the direct and indirect costs associated with maintaining the Register and producing the Report must not be used to restrict the information that foreign water entitlement holders are required to provide to the ATO, nor must they be used to restrict the information on foreign water entitlement holders that can be accessed by the Australian public.

Point 3

Not only must all direct and indirect costs be borne by foreign owners of water entitlements to ensure compliance with the Act, but there must be an immediate change to their exemption from paying capital gains tax on the profits they make out of those entitlements. According to the ATO:

“Water entitlements are generally separate from the underlying land and not taxable Australian real property. This means that a foreign resident would disregard any capital gain from the sale of a water entitlement. In contrast, Australian resident entities are required to account for gains or losses on their worldwide assets, which includes assets in Australia like water entitlements.”

It is simply unacceptable that Australian farmers must compete with giant multinational corporations who are given tax breaks that cannot be enjoyed by Australians.

It is hard to see why the Treasurer's inquiry should focus on the costs to foreign investors of compliance to a Register administered by the Treasurer's own ATO, when that ATO is exempting foreign holders of water entitlements from capital gains tax on profits from trade in those entitlements.

Nick G.

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