



Premier of Western Australia

Our Reference: 59-169889

Mr Mark Fitt
Committee Secretary
Senate Economics Reference Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Mr Fitt

Thank you for your invitation of 13 December 2019 to make a submission to the Senate Standing Committee on Economics' *Inquiry into foreign investment proposals*. I make this submission on behalf of the Western Australian Government.

Foreign investment is of particular importance to Western Australia's economy. Western Australia accounts for around 10 per cent of Australia's population, but over the 10 years to 2019 accounted for around 25 per cent of the value of Australia's business investment. Much of this investment has come from outside Australia.

Western Australia's economic development has been underpinned by its outward looking focus, including an openness to foreign investment, which has allowed the capital-intensive mining and energy sectors to develop into world-leading exporters. My Government is conscious that future economic growth and job creation in Western Australia is dependent on businesses continuing to attract foreign investment.

For this to occur, government at all levels in Australia need to have policy and regulatory settings to ensure investment is productive, businesses can grow and benefits can flow to local communities. This includes the policy and regulatory settings related to foreign investment, the process for assessing foreign investment proposals and the communication of this process to relevant stakeholders.

The Western Australian Government, like other state governments and the Australian Government, has a critical role in attracting foreign investment. To execute this role as efficiently and effectively as possible requires a foreign investment framework that is transparent and predictable and which ultimately supports the aspirations of domestic workers and businesses.

The Western Australian Government values the opportunity to provide a local perspective on foreign investment proposals that impact the State. To strengthen Western Australia's ability to fulfil this role, the Western Australian Government makes the following suggestions.

The role of the Foreign Investment Review Board (FIRB)

As the Western Australian Government is regularly called upon to review proposals submitted to FIRB, it would be helpful to receive feedback as to the outcome of these proposals. A possible solution is for FIRB to provide, in-confidence, a summary of proposals that have been rejected or approved with conditions accompanied by a brief explanation. As an example, FIRB's equivalent in New Zealand, the Overseas Investment Office, provides a monthly summary of foreign investment proposals that have been granted approval, as well as cases where applications have been declined.¹ Feedback of a general nature as to FIRB's considerations, weightings and reasons for support or rejection would enable Western Australia – and other consultation partners – to provide input that is better tailored to the decision-making process.

Within the current framework of information provision, we would like to suggest more frequent updates to FIRB's Agricultural Land and Water Entitlement registries. The information in these registries provides important context for assessing individual proposals against the national interest.

Reviewing proposals against the national interest test – competition and impacts on local economies

The 'Australia's Foreign Investment Policy' document notes 'the [*Foreign Acquisitions and Takeovers Act 1975*] empowers the Treasurer to prohibit an investment if satisfied it would be contrary to the national interest. However, the general presumption is that foreign investment is beneficial, given the important role it plays in Australia's economy.'

The Western Australian Government agrees with this general presumption, but notes that applicants should also be encouraged to detail how their investment would support the national interest; in particular how the investment will improve the overall productivity of the economy and opportunities for local businesses and workers. This could include research and development, technology transfer, joint venture or partnership proposals, and potential injection of local companies into international supply chains. This information will assist in assessing proposals where the motivation of the investor is not clear.

For example, a relatively new phenomenon in regards to foreign investment is the emergence of investments being tied to project supply chain opportunities linked to operations of the investor in their home market. If this practice becomes widespread, it will severely limit the opportunities for Australian based companies to tender for (and win) supply chain opportunities in the foreign investor's project. In effect, as a result of conditions negotiated as part of the foreign investment, Australian companies are excluded from bidding for certain supply chain opportunities. These opportunities tend to be the lucrative, high-value adding aspects of the project.

¹ The Overseas Investment Office's January 2020 decision summaries can be found here: <https://www.linz.govt.nz/overseas-investment/decision-summaries-statistics/2020-01>

At this stage, neither the Australian Government nor the Western Australian Government has any developed position on how widespread this practice is or the effects on Australian industry. The Western Australian Government believes that, as part of the approval process, any tie-back supply chain opportunities negotiated should be visible to both the Australian Government and State governments. Equally, the applicant should outline in their proposal how they will engage with the Australian supply chain and offer full fair and reasonable access to project supply opportunities.

Other related matters

A distinction is made in the *Foreign Acquisitions and Takeovers Act 1975* between a 'foreign person' investor and a 'foreign government' investor. With some proposals, there is a potential for these distinctions to blur together. It is suggested consideration be given to further clarification of the two terms and the weight FIRB would generally apportion between government-sanctioned and private business investment when making recommendations to the Treasurer.

I note the announcement by the Commonwealth Treasurer on 29 March 2020 regarding temporary changes to the foreign investment review framework that are designed to protect Australia's national interest in the context of the economic implications arising from the spread of the coronavirus. While noting that these are designed to be temporary changes, the changes highlight the need to ensure consultation partners have as much information as possible to make meaningful contributions to the assessment of foreign investment proposals.

Thank you for the opportunity to respond to the Senate Standing Committee on Economics' *Inquiry into foreign investment proposals*. I look forward to Western Australia continuing its involvement in the important role of reviewing foreign investment proposals and trust the information provided in this submission will be of use in your inquiry.

Yours sincerely

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Mark McGowan MLA
PREMIER; MINISTER FOR STATE DEVELOPMENT, JOBS & TRADE

- 8 APR 2020