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31st May 2018

Standing Committee on Agriculture and Water Resources

Inquiry into superannuation investment in agriculture.

Dear Chair and Committee.

I wish to make the following submission to the Standing Committee of Agriculture and Water Resources in regards to the Inquiry of, 'Superannuation fund investment in agriculture'.

My standpoint is as an owner/operator cattle producer who also manages our own Self Managed Superannuation Fund (SMSF) operated under *Australian Superannuation Industry (Supervision) Act 1993* (SISA).

The following views are my own opinions based on experience of investing and management of a pastoral cattle breeding property (25 years) and a SMSF (10 years). All views in regards to foreign investment are my own. I do not represent any organisation though I do support and am a member of various industry cattle groups.

Having recently sold our cattle breeding property, my husband and I are conducting due diligence activities with a view to purchase a pastoral property in the NT, QLD or WA of less than $10M that would allow operation by us as a family organisation.

To achieve relevant economic scale to our business criteria, we will likely purchase more than one land title. We wish to utilise significant investment value of our SMSF to assist in long term ownership and control of our business in that purchase criteria.

Issues surrounding compliance for a SMSF to own agricultural land can be confusing to navigate and require significant professional guidance. Specifically, legally binding requirements under SISA relate to 'sole purpose', 'business real property', 'arm's length agreement' and rules surrounding ongoing valuations and auditing requirements[1]. Consideration is also required in regards to transition to retirement issues even though we are over 15 years from retirement age.

In regards to our searches of a suitable property area we have faced some competition from foreign investment who are Superannuation based asset holdings from overseas. They purchased a holding we had specifically been in negotiations for.[2] Realistically we are in no position to outbid another organisation that has and is prepared to spend many millions above and beyond what we would. We don't begrudge a property seller to sell to the highest bidder in any market, that is normal economic pressures.

The situation did raise questions as to the requirements of a foreign superannuation based group having to meet the same criteria as ourselves or Australian industry funds. Especially, in regards to obligations of asset management, liquidity and compliance, security and the ability to not only own real property but to also operate a business which a SMSF is not allowed to do.

I can appreciate that this enquiry is mainly focused on large industry superannuation funds with access to many millions even billions of dollars. I would like significant consideration be applied to Australian SMSF's range of $1-$5M for ways to encourage long term sustainable investment into Australian agriculture.

The number of and Australian SMSF funds in my view will increase. I believe it is a sector that is largely underestimated for investment opportunity and source of non-farm equity alongside traditional finance methods.

Committee inquiry reporting Issues

1. **'Are there regulatory requirements imposed on superannuation funds by ASIC, APRA and any other relevant regulators, which are acting as a barrier to superannuation fund investment in Australian Agriculture.**

Yes. Most definitely. Rulings by the ATO in regards to limitations of use of SMSF for Agricultural land that would have a business on it operated by the same trustee as the SMSF.

For a SMSF, regulations surrounding audit requirements and re-evaluation of land every 12 months can be particularly onerous and expensive to conduct. There are other requirements and restrictions in regards to a SMSF owning land, for instance you can't use that land owned by the SMSF as security for a related entity mortgage. I agree with this requirement and think it is necessary to ensure security of the asset. I do not wish see changes to this aspect of SMSF obligations.

Independent auditors or SMSF's demand strict adherence to regulatory requirements, most importantly issues of 'sole purpose'. Difficulty and complexity of opinions can arise when a property asset may be lived on for residential purposes by the SMSF trustees, directors or extended families. Conflict may occur when a number of family members may live on a property with no actual rental agreement or as part of their work with their time spent on property not 100% targeting the business conducted. Obviously people may have rest times or hobbies, these may come into question of breaching 'sole purpose use' for some members as they give a benefit to the trustee prior to retirement.

I think a number of 'sole purpose' within SMSF regulations need to be realigned to suit an agriculture based asset that allows some discretion by the auditor to consider maters of occupation and use.

If the following statement is considered;

> "Around $600 billion in additional capital will be needed on farms and in supply chains between now and 2050 ... a further $400 billion will be needed to support older farmers exiting the sector, allowing the next generation of farmers to buy them out."
>
> **Greener Pastures, 2012**

In agriculture many properties are owned and operated by a family unit with the intention of asset transfer progressing through to the next generation. The average age of Australian farmers is 52[3]. This may not be an overly accurate age estimation due to the way the survey correlated information, which included people who were semi-retired and identified as farmers when in fact they weren't[4]. If 52 is taken as a very broad basis it is considered that the retirement of these current farmers represents a $400B capital transfer of ownership[5].

I believe many would intend to retire on property if able. The reason we have an aging farmer population in my view is because initial start-up is difficult and because of historically low asset returns, it doesn't encourage young people to even stay in the industry let alone start up a business.

It is very difficult to enter agriculture without significant asset investment; therefore, I think more consideration should be made by SMSF rulings to allow sales and transfer of real property assets from related parties to a SMSF. The aging parents would hold the asset but may allow a younger generation to not have their capital tied up in the land with a significant debt burden. I propose this only for those in the transaction who have long term ties with the land being considered for sale, say 10 years or more and for land over a certain size that is proven primary production business under the current ATO laws[6]

Relief consideration needs to be given for transfer to occur of a long established genuine agricultural property business property asset to related parties of a SMSF. I do not think hobby farms or small holdings or say under 5 hectares intended as retirement should be included. Agriculture Agreements appropriate to a SMSF investment could be written for related parties such as acquiring services that may assist the family operations. I do not think these should be directly market value related due to the inconsistency and irrelevance of external land values to the enterprise being run. I believe this would assist many instances of retirement for current owners yet allow operation of a property by family.

In regards to foreign investment in general, I do not believe the FIRB requirements are onerous in regards to foreign investment as some media hype would like the general public to believe. Certainly not in larger scaled investments.

In 2016/17, the FIRB approved over 99% of applications made[7].

72% (10,292) applications were for individual amounts of less than $1M

28% were worth a total of $187.2B. Consisting of 97% of the overall value approved.

For 2016/17 foreign investment targeting agriculture comprised of 4% of the total approved investments valued at $7B.

There were only 3 applications not approved and at least one of them was for national security reasons[8].

I think the $15M barrier of investment threshold of reporting was a very good step in regards to transparency and reporting of foreign investment[9]. I do think the information of the foreigner ownership structure and who they are, should be made available to the general public. For instance, tracking of organisations through ASIC not on the Australian business register is difficult and should be more transparent if they are foreign companies. I believe the register should be publicly displayed and also list Australian companies who are significantly owned by foreigners but are not regarded as foreign investments. For example, the North Australian Pastoral Company largely owned by a UK based pension protection fund.[10]

I believe a greater reporting ability and transparency of foreign investment information is required, particularly if the company is foreign investors superannuation based.

It concerns me greatly that large Australian industry funds are reportedly required to have a very high degree of liquidity of assets to pay out members within 3 days of a request of funds.[11] This simply seems impractical when considering large investment scale.

I think the committee need to look very closely at investigation of foreign investment superannuation funds abiding by Australian laws to ensure a 'level playing field' in regards to not only large industry sized funds but those of the SMSF level.

In regards to a SMSF regulations surrounding property versus business. A SMSF can own a farming property but cannot operate the farming business because SMSF's are not allowed to operate a business intended as a day to day living capacity. I would like the committee to consider that there is not a level playing field for competition when the foreign investors using industry superannuation and possibly Australian industry funds are allowed to operate businesses.

In my eyes this is a clear discrepancy between what a small SMSF is limited by regulation when a foreign superannuation fund is not.

I have an example of this in regards to the Canadian group we found ourselves up against. This organisation is called the Public-Sector Pension Investment Board (PSPIB). Through company and title searches I have found that they are the ultimate holding company of the Dawson Land investments that owns property, as a SMSF would be allowed.

As well though, the PSPIB also operate through subsidiary holdings a company called Hewitt Cattle Australia that actually leases the land from Dawson Land investments to operate as an ongoing cattle enterprise. If a SMSF did this they would be in breach of just about every legal compliance there is to meet their obligations under SISA.

2. **'Is information required by superannuation funds to invest in Australian agriculture readily available, and if not, what statistical performance reporting of the agricultural sector is necessary'**

There is a need to be very cautious of viewing the last few years performance of agriculture, specifically beef as an indicator of future performance. Ultimately farm earnings are based on climate and water availability (rain or controlled irrigation methods). These factors will significantly affect productivity factors. In the beef industry Key Performance Indicators (KPI) are fundamentally the same for any business model, scale or value. That being the Cost of Production, efficiency and scale. Productivity drivers are reproductive rate, mortality and sale weights, each issue specific to the number of stock able to be run on that property. These factors singularly or combined can impact significantly on the return of asset to a business and its eventual long-term profitability.

This information is very difficult to source from individual properties and many sellers will not disclose it anyway to those investigating due diligence[12]. The seller may not even have the information or feel it would devalue the property if it was known. The fact is many properties are brought with little known information that can be relied on for future returns. Add to that climate and market variables and estimating future earnings is extremely difficult!

I think it is 'smart' of the major funds to refrain from blindly following the herd in what is happening at the current time of agriculture land purchases. Simply because investment is coming from sources outside of Ag, such as mining, foreign or speculative, it doesn't mean there is an ag boom, not much more is actually being physically produced. Just some people are going crazy paying a lot more for land than has been paid in the past.

With properties attaining unprecedented land values it is simply beyond comprehension as to why people continue to pay such unrealistic prices. The genuine productivity drivers are unchanged and cost inputs such as fuel, vehicles and materials continue to rise and will force the cost squeeze factor to diminish terms of trade.

With only 0.5% of their $2.2T of funds under management in Ag[13]. I think the fact that Australian superannuation industry funds have refrained from significant investment in it, shows a high degree of scepticism and healthy respect of the volatility and lack of return that can occur over a long period.

Many of the investors currently participating in large agriculture property transactions in my view are basing assumptions of return on two main factors,

1. **Potential of markets that as yet have not eventuated or possible unlikely to eventuate that will never realise full expected earnings.**
   It concerns me that most of the hype of our marketing and market analysts focus on China being the saviour of all our food production marketing due to their increasing middle-class population buying capacity. I remember this being touted to me over 20 years ago and while I do hope it comes to fruition I am not sure it is going to happen as quickly as many seem to think.
2. **'Bigger fool theory' that irrespective of what is paid for the value of land someone else will always pay more.**

This may work sometimes and no doubt mostly land values will increase and stabilise over a long period, 10 years or more. Over short periods or only a few years when debt and market impacts are factored in, 'flipping' of properties or sale within a very short time frame is generally not viable. If the only real option to reduce debt or realise a return on asset is to sell that property because it can't trade profitably then I think the fundamentals of that business model are flawed.

The above points of unrealistic potential and land value expectations are the inherent risks any property buyer faces. If realised they may be true significant profit earners that undoubtably earn some large profits. If an investor gets it wrong though, and both events never eventuate they are simply irresponsible speculation.

I suspect that many of the land values currently being paid are the latter. Add to that land value is not genuinely what return can be achieved but rather what people are prepared to pay mostly governed by what money can be obtained, through held assets or borrowings, I think we have a property bubble in the making.

I sincerely hope that the large Australian super investors risking Australians contributions stay well out of Australian agriculture investment at the moment.

Recently an independent study was released called the Australian Beef Report (McLean & Holmes 2017). It illustrated the 12-year performance of the beef industry across Australia. This report correlated average business analysis data of various herd sizes that were family owned. Information was presented to show the Average and Top 25% of the industry participants.

Irrespective of herd size the industry average <u>failed</u> to meet cost of capital returns across all sectors. *"The average performance of the majority of cohorts in the north and the south are operating at a loss before interest and tax"* (ABR. McLean, Holmes. 2017. Pg. 52).

While this report was based on investigation of family-based enterprises the fundamentals remain the same up to the largest scale corporate business's. If they are not attaining a return on asset from their key performance factors they will not make money. It is my view that while there may be a number of Agriculture corporates who claim they are making large returns. I suspect many others are simply haemorrhaging money.

Australian agriculture is well known to have had monumental agribusiness development failures, especially those targeted to potential tax benefits. Retirees and those close to retirement were encouraged to make a quick buck, many lost their life savings due to unscrupulous scheme managers. I would hate to see large Australian industry funds go down the same path.

Two notable failures[14] are listed in the box below.

Timber plantation group – Great Southern collapsed in 2009, Managed 45 schemes on behalf of 43,000 investors worth over $1.8B

Timber Corp. Another taxation haven scheme went into involuntary administration owing over $661M

I think we need to look at investment in Agriculture for large organisations willing to; not directly in the operation of a specific property so to speak but in a broader sense of investment in rural and regional areas that may then assist producers.

If the true capacity of a value chain is to be realised then we have to create regions people want to live and work.

For instance

1. Roads and infrastructure. Investment government bonds specifically targeting areas that will improve access, efficiencies and operations
2. Telecommunications, health, education and childcare. Attaining of population in regional areas is as critical as increasing it.

Statistical information is very difficult to ascertain in regards to agriculture on an operational level, particularly if many of the business and companies involved in that reporting are not obliged to supply or provide proof of their turnover or fundamental operations.

Information supplied to ABARES is generalised at best, completely false and misleading at worst. It needs to be regarded as a very broad indicator and not regarded too specifically when looking at earnings and turnoff.

If consideration was given to the way in which land is owned or leased the security of tenure and the method in ways of equity partnerships could be utilised I think an entire new frontier of investment could occur that would allow significant capital security for a superannuation vehicle but allow the primary production to remain in the control of the farm.

Land is highly regulated and controlled. If investment could be utilised to allow silent investment, this may allow utilisation of non-farm equity, alongside traditional methods of finance without debt burdening of the producer. It would free up significant capital of the farm operations.

The down side is that the investor, buyer of the land would have to expect minimal returns on the land asset on a year to year basis of lease. With profit gain achieved through capital gains on sale of the asset over a long time period. Ironically and logically I suppose why would an investor buy a property they can't make money on and why would the land increase in sale value unless the overlying business was to change significantly to warrant that increase? That's what is happening now though, Land values are going through the roof but the supporting profit-making factors are not supporting them, so sometimes fact is stranger than fiction!

Methods and structure of lease arrangements would need to also be reconsidered in view of their current rigid terms and factor in yield and productivity fluctuations. Contracts for agriculture land rent or lease need to be based on a performance criterion rather than a set value of return as if they were a standard business in a town or city with a common land valuation. If people were to lease land it needs to be comparable and cheaper than taking on a relative value debt and attempting to own the land outright.

3. **Other practical barriers to superannuation fund investment in Australian Agriculture.**

Statistics readily available through ATO for 30/06/2017 state that of the $2.3 trillion total Australian superannuation assets held, over 30% are SMSF's. Numbering 597,000 funds holding $697B in assets for 1.1M members. There has been 34,000 new SMSF's established each year over the last 5 years[15].

I believe the increase in SMSF is indicative of the overall frustration and disenfranchised feeling investors have with large corporate industry funds, who have failed to achieve basic returns on capital and yet charged exorbitant fees for management[16]. Factor in recent media reports such as AMP openly lying and misleading ACCC and issues in regards to financial planners lack of accountability. It is no wonder more and more people want to control their own retirement monies!

In my opinion SMSF will continue to increase in popularity, thus their numbers in both size and value will also increase.

In our case, personal experience of poor performance within industry funds prompted our interest in establishing a SMSF, taxation minimisation was secondary to taking better control of our future asset earnings. Personally, the internet, with access to better investment information and thus education has enabled my own knowledge to increase significantly. It also enables a degree of critical analysis without reliance on questionable outside financial advice from people who in many instances have conflict of interest in giving that information.

ATO statistics say that of the SMSF's there is an average of only 1.8 members per fund with an average asset value of $1.1M. 53% are solely in accumulation phase, 57% are corporate trustee establishments. This is important I believe as both accumulation of asset value and corporate structure enable better ability to own and manage land and accumulation lends itself to investment over the long term

I would like to see big business focus on the supply chains and larger industry set ups while smaller SMSF's concentrate on small farm set ups. I would like to see Australian land retained by Australians but realise that this is increasingly becoming idealistic.

It is the Australian SMSF that needs to be targeted and directed to land ownership with leasing arrangements at leasing rates that are productivity based. With land ownership the 'real property' can be owned and exchanged without significant effect on the operational aspect of the businesses on the land.

Critically if lease arrangements were allowed to not be stringently attached to other commercial value agreements comparisons, the land could be leased to operators of an agricultural enterprise at a reduced rate or at least comparable to its earning capabilities.

At the moment a SMSF has to establish ' arm's length' commercial agreements. I agree contracts and writings should be in place to ensure accountability of the asset use, but it can be very misleading to base a lease agreement on other registered leases of other properties that have no real attachment to your own operations, needs or aims.

In the instance of properties in Central Australia if I was to use our SMSF to purchase a property (assuming it met all criteria to initially do so) then the only commercially based lease agreements available are actually those in place registered to properties foreign owned and leased to their foreign attached companies.

Many of the issues maybe facing these companies or their arrangements may or may not be relevant at all to our operations.

If some of the legislation of related parties and 'sole purpose' could be reconsidered for family farm operations I believe the potential to allow aging farmers to retire and enable transition of operation to younger generations within their families could be greatly enhanced.

The model of farming is changing, not only are the actual number of beef cattle farmers declining (2016 numbers of producers dropped by 4,000 top 28,000 across Australia) but the way intergenerational transfers occur or succession is becoming increasingly important for business stability.

We don't want to become a country of managers whose land asset is actually owned by foreigners, we need to find ways to retain land ownership by Australians in a productive manner.

I am not advocating a relaxation of SMSF regulation to protect the underlying asset for retirement purposes, but I do wish the committee to consider methods of use of SMSF that enables better long term use of funds to procure land. Only if it has been held in very stable family business that would enable better efficiencies than simply investing SMSF monies off farm.

I do advocate that land held within SMSF be less critically assessed on a year by year basis by audit procedures. For instance, if we held a property within our SMSF it must be re-assessed by an independent land valuer every 12 months. While at times this can be a desktop evaluation I advocate a genuine independent inspection valuer as per normal due diligence procedure in the process of buying the land. With a re-assessment of land value only every 5 years, not every 12 months as is currently required.

For many farming people such as ourselves our properties are our superannuation fund. They are not in the legal sense of course, but mentally we certainly look at investment of a property as long term. It is the place we will retire, while the kids may take over operation. The likely hood is we will live and intend to live on the property until physically not able.

When purchasing a property, factoring in selling the land unit is not a viable option. We don't buy a property to simply turn it over in 3-4 years we intend to stay on the property for likely 15-20 years if not indefinitely.

Ways must be considered to not only allow younger generations to take up Australian Agriculture but ensure we retain the knowledge of those already in ag without enslaving them to crippling debt loads or selling off significant Australian interests to foreigners.

I thank you for the time in taking to read this submission. If you wish to clarify any points I have made or for me to provide documentation as to my views I am more than happy to assist in any way I can.

Yours Sincerely

Jo-Anne Bloomfield.

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[1] Superannuation Industry (Supervision) Act 1993

Sole Benefit Purpose – Is the intention of the fund to provide solely for retirement purposes of the trustees.

Business Real Property – Any freehold, leasehold interest of the entity in real (physical) property

Arm's length Agreements – SMSF must transect purchase, sale or lease of an asset at true market value, reflecting a true market rate of return.

[2] Land title. Perpetual Pastoral Lease 1091. Numery Station. (searched 22/01/2018) NT. Owner is Dawson Land Investments Company (CAN 600 506 778)

Dawson Land Investment is a Canadian funded joint venture with an Australian organisation. The Canadian funding is sourced from that countries Public Sector Pension Investment Board with an estimated value in excess of $153 billion.

We attempted to purchase this property in 2017 but failed due to Dawson Land investments reportably willing paying twice the land value of which we had assessed the property viable at.

[3] http://www.corrs.com.au/thinking/insights/its-time-to-make-good-on-the-innovation-nation-and-welcome-foreign-investment-in-agriculture/

[4] http://farminstitute.org.au/ag-forum/farmers-are-getting-older-but-its-not-a-problem

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Australian Bureau of Statistics includes all those referring to the their occupation as 'farmers' which would include many owners of the 40% of all farms which are small farms and not strictly farm 'business – most replying almost entirely on non-farm income.

[5] https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Building%20Lucky%20Country/deloitte-au-btlc-business-positioning-prosperity-2014-230217.pdf. Pg 27.

[6] Australian Master Tax Guide. Pg 1110. Section 18-020. 'Primary Production business'

[7] FIBR 2016/2017 Annual report. Pages 31-34

[8] http://sjm.ministers.treasury.gov.au/media-release/011-2015/

[9] FIBR 2016 / 2017 Annual report.

[10] http://www.farmweekly.com.au/news/agriculture/agribusiness/general-news/qic-buys-80pc-stake-in-napco-beef-business/2752510.aspx?storypage=0

[11] https://www.farmonline.com.au/story/5428097/super-investment-in-ag-in-canberra-spotlight/

[12] https://www.beefcentral.com/property/weekly-property-review-lots-of-nt-listings-but-sales-slow/?utm_medium=email&utm_campaign=Property%20Central%20News%20Headlines%20June%2020%202018&utm_content=Property%20Central%20News%20Headlines%20June%2020%202018+CID_af30520a08ea63d70d859f4e8492b99f&utm_source=eGenerator&utm_term=Weekly%20property%20review%20Lots%20of%20NT%20listings%20but%20sales%20slow

[13] http://www.farmweekly.com.au/news/agriculture/agribusiness/general-news/canberras-super-laws-help-starve-ag-of-capital-needs/2756296.aspx

[14] 'Managed investment schemes – Behind the collapse of Timbercorp' Newsweekly 16/05/2009

[15] ATO. SMSF Segment Overview. Statistics. Sourced 10/06/2018

[16] 'Australians could lose $400,000 of their superannuation on wasted fees and duplicate accounts by the time they're ready to retire' www.msn.com.