



Australian Government
Australian Taxation Office

Register of Foreign Ownership of Agricultural Land

Report of registrations as at 30 June 2016

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Background

On 11 February 2015, the Government announced a suite of reforms designed to increase transparency around foreign investment in Australia. These reforms included the establishment of a foreign ownership register of agricultural land and changes to Australia's foreign investment screening regime as it applies to acquisitions of agricultural land.

The *Register of Foreign Ownership of Agricultural Land* (Agricultural Land Register) was established on 1 July 2015 and is administered by the Australian Taxation Office (ATO). The *Register of Foreign Ownership of Agricultural Land Act 2015* (Agricultural Land Register Act 2015) requires foreign persons with an interest in agricultural land to register that interest on the Agricultural Land Register, regardless of the value of the land.

Investors are required to notify the ATO within 30 days if they:

- > are a foreign person starting to hold agricultural land; or
- > are a foreign person ceasing to hold agricultural land; or
- > become a foreign person while holding agricultural land; or
- > cease to be a foreign person while holding agricultural land; or
- > are a foreign person holding land that becomes agricultural land; or
- > are a foreign person holding land that ceases to be agricultural land.¹

An interest in agricultural land includes a freehold interest or the right to occupy land under a lease (including a sublease or licence) where the term of the lease or licence (including any extension or renewal) is reasonably likely to exceed five years.²

A stocktake was conducted between 1 July 2015 and 29 February 2016 to enable existing foreign person land holders to register their land. During this time, the ATO used data matching to contact investors who may have met the definition of foreign person and who held Australian land that may have met the definition of agricultural land.

The register collects details about the foreign person, including name and contact details; country of incorporation and an ABN or other identifier where the registrant is an entity; or nationality, passport and visa details where the registrant is an individual.

The Commissioner of Taxation is required to report to the Treasurer on the operation of the Agricultural Land Register Act 2015, as well as publish aggregate statistics on a website. The report must not release information which could identify, or reasonably be used to identify an individual or entity.

This report represents the first report under the Agricultural Land Register Act 2015. It covers registrations made between 1 July 2015 and 30 June 2016.

¹ See Division 3 of the *Register of Foreign Ownership of Agricultural Land Act 2015*.

² See Division 3 of the *Register of Foreign Ownership of Agricultural Land Act 2015*.

Findings

The definitions of foreign person and agricultural land for the purposes of the Agricultural Land Register are explained in [Attachment A](#). An explanation of how the following statistics were calculated is included in [Attachment B](#). To avoid misunderstandings, the following statistics need to be interpreted in conjunction with these attachments. Figures in tables have been rounded. Discrepancies in tables between totals and sums of components are due to rounding.

Table 1: Proportion of agricultural land held by foreign persons³

State/Territory ⁴	Foreign Interests (‘000 ha)	Australian Agricultural Land (‘000 ha)	Percent Foreign (%)
NSW/ACT	2,375	57,434	4.1
VIC	607	12,009	5.1
QLD	17,658	135,918	13.0
WA	8,841	81,399	10.9
SA	7,156	45,837	15.6
TAS	342	1,569	21.8
NT	15,169	50,392	30.1
Total	52,147	384,558	13.6

Table 2: Freehold and leasehold land interests held by foreign persons

State/Territory	Freehold (‘000 ha)	Leasehold (‘000 ha)	Total ⁵ (‘000 ha)
NSW/ACT	2,146	232	2,378
VIC	565	71	636
QLD	5,426	12,860	18,286
WA	798	8,045	8,842
SA	141	7,015	7,156
TAS	302	40	342
NT	46	15,123	15,169
Total	9,423	43,385	52,808

³ The proportion of foreign interests in agricultural land by State/Territory shown in Table 1 was calculated by dividing the total area of foreign-held agricultural land in each State/Territory registered on the Agricultural Land Register, by the total area of agricultural land in each State/Territory sourced from the Australian Bureau of Statistics (ABS) 2014-15 Rural Environment and Agricultural Commodities Survey (REACS).

⁴ Some properties span multiple States/Territories. For these properties, the property address provided by the registrant has been used to determine the State/Territory.

⁵ In some instances, the same property has been separately registered by a foreign person with a freehold interest in the land and a foreign person with a leasehold interest in the land, as required under the *Register of Foreign Ownership of Agricultural Land Act 2015*. Land size information from both registrations has been included in Table 2 only. As a result, the total hectares held by foreign persons are greater in Table 2 than elsewhere in this report.

Table 3: Summary of foreign interests in Australian agricultural land

State/Territory	No. of Properties	Area (‘000 ha)
NSW/ACT	1,798	2,375
VIC	1,558	607
QLD	1,345	17,658
WA	917	8,841
SA	614	7,156
TAS	911	342
NT	71	15,169
Total	7,214	52,147

Table 4: Foreign interests in agricultural land by land use (‘000 ha)⁶

State/Territory	Crops	Livestock	Horticulture	Other Farming	Forestry	Non- Farming	Unreported
NSW/ACT	638	1,168	74	35	122	97	242
VIC	80	78	6	10	413	14	6
QLD	314	15,349	76	12	353	147	1,407
WA	419	7,602	10	15	160	511	123
SA	23	6,983	7	1	92	37	12
TAS	4	51	17	3	259	5	4
NT	1	14,554	0	0	11	16	587
Total	1,479	45,785	190	77	1,409	827	2,381

⁶ Land use was not provided by all registrants as the land use fields were not compulsory fields on the Agricultural Land Register form.

Table 5: Size of foreign agricultural land interests by source country
top 10 ('000 ha)⁷

Country	Total
United Kingdom	27,504
United States	7,727
Netherlands	2,976
Singapore	1,862
China	1,463
Philippines	1,119
Switzerland	1,069
Jersey	944
Indonesia	774
Japan	685
Total	46,123

⁷ Entities and trusts were required to provide their country of incorporation. However, this is not necessarily a reflection of the foreign source country of the investor. The ATO is continuing to use its data sources to match residual registrants who registered as an entity incorporated in Australia with the source country of the investor.

Attachment A: Definitions

This attachment provides information on the definitions of foreign person and agricultural land as detailed in the Agricultural Land Register Act 2015. Further information on the definitions can be found in the Guidance Notes on the Foreign Investment Review Board (FIRB) website: www.firb.gov.au.

Definition of 'foreign person'

The term 'foreign person' is defined in section 4 of the Agricultural Land Register Act 2015. It states that the term has the same meaning as 'foreign person' as defined in section 4 of the [Foreign Acquisitions and Takeovers Act 1975](#).

In general, a 'foreign person' is:

- > an individual that is not ordinarily resident in Australia⁸; or
- > a foreign government or foreign government investor; or
- > a corporation, trustee of a trust or general partner of a limited partnership where an individual not ordinarily resident in Australia, foreign corporation or foreign government holds a substantial interest of at least 20 per cent; or
- > a corporation, trustee of a trust or general partner of a limited partnership in which two or more foreign persons hold an aggregate substantial interest of at least 40 per cent.

A 'foreign government investor' is:

- > a foreign government or separate government entity, a corporation or trustee of a trust, or a general partner of a limited partnership in which:
 - a foreign government or separate government entity holds a substantial interest of at least 20 per cent; or
 - foreign governments or separate government entities of more than one foreign country (or parts of more than one foreign country) hold an aggregate substantial interest of at least 40 per cent.

⁸ As defined in section 5 of the *Foreign Acquisitions and Takeovers Act 1975*.

Definition of 'agricultural land'

'Agricultural land' is defined in section 4 of the Agricultural Land Register Act 2015 as 'land in Australia that is used, or that could reasonably be used, for a primary production business.'

Section 5 of the Agricultural Land Register Act 2015 provides that rules may be made that specify land that will not be considered agricultural land for the purposes of the Agricultural Land Register. The *Register of Foreign Ownership of Agricultural Land Rule 2015* provides that the following land will not be considered agricultural land for the purposes of the Agricultural Land Register Act 2015⁹:

- > Land that is not currently being wholly or predominantly used at that time for a primary production business and:
 1. zoning approval is required from government before the land could be used for primary production; or
 2. the land is currently used, or proposed to be used for mining or activities ancillary to mining; or
 3. the land is used for environmental protection or conservation under a law of the Commonwealth, a State or a Territory or a legally binding agreement; or
 4. the land is located within an area that has been approved by a government authority as an industrial estate; or
 5. the size of the land is under one hectare; or
 6. the land has been approved by a government authority for use as a tourist facility, an outdoor education establishment or an outdoor recreation facility that is open to the public; or
 7. an application has been made to re-zone the land to not allow the land to be used for a primary production business, or approval has been sought to use the land for mining activities.
- > Land where the only primary production business the land could reasonably be used for is a primary production business relating to submerged plants and animals.

⁹ Land that is not agricultural land for the purposes of the *Register of Foreign Ownership of Agricultural Land Act 2015* is outlined in section 44 of the *Foreign Acquisitions and Takeovers Regulation 2015*.

Attachment B: Methodology

The high level statistics are based on the information provided by registrants.

1. Data was extracted from the Agricultural Land Register database on 30 June 2016.
2. Some registrations have been altered in accordance with section 16 of the Agricultural Land Register Act 2015 when it has been determined via data matching or manual data collection that the registrant has provided incorrect information. The validation of registrations is an ongoing exercise, with information validated using ATO risk algorithms, third party data sources and manual data collection. Ultimately, the obligation to report correctly lies with the foreign person. Penalties exist under the *Taxation Administration Act 1953* where a person fails to register correctly.¹⁰
3. Registrants were able to enter the size of the land onto the Agricultural Land Register in any unit of measurement. The ATO has converted the sizes into hectares for the purposes of this report.
4. Entities and trusts were required to provide their country of incorporation. However, this is not necessarily a reflection of the foreign source country of the investor. Source country information has been obtained using information provided by registrants, ATO data sources and manual data collection.¹¹
5. Properties were given a unique identifier in the form of a composite of the property name/address, suburb and State/Territory. Counts of properties were based on instances of unique identifiers.
6. In some instances, the same property has been separately registered by a foreign person with a freehold interest in the land and a foreign person with a leasehold interest in the land, as required under the Agricultural Land Register Act 2015. To avoid double counting in these instances, only the freehold interest was counted. However, in Table 2, the land size information from both freehold and leasehold registrations has been included.

¹⁰ New systems are being developed and other data sources acquired which will enable further data validation.

¹¹ In some cases, the nationality or country of incorporation of a nominal investor may have been identified, rather than the nationality or country of incorporation of the ultimate beneficial owner.

Attachment C: Land Registration Form Fields

The ATO requires each registrant to complete the following fields:

Representative details

- > Name
- > Position
- > Address
- > Mobile/cell number
- > Contact email.

Reason for registration

- > Acquisition of agricultural land
- > Cease to hold agricultural land
- > Change in status: To foreign person
- > Change in status: From foreign person
- > Change in status: To agricultural land
- > Change in status: From agricultural land.

Entity/ownership details

- > Name
- > Country of incorporation (where registrant is a trust or company)
- > Address
- > Date of birth/nationality (where registrant is an individual)
- > Contact details
- > Mobile/cell number
- > Contact email.

Land title details

- > Property name and address
- > Lot/plan
- > Land area
- > Title holding type (leasehold or freehold)
- > Date of event
- > Market value of land in Australian dollars
- > Percentage interest in the land.

Certain fields are not mandatory as they do not apply to each registrant. Voluntary fields include:

- > Land use
- > Visa and passport details
- > ABN/ACN/ABRN/other client identifier
- > Trading name
- > FIRB approval number.