



**Australian Government**  
**Australian Taxation Office**

# Register of Foreign Ownership of Water Entitlements

Report of registrations as at 30 June 2019

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# Introduction

The Register of Foreign Ownership of Water Entitlements (Water Register) was established to provide greater transparency about the level of foreign ownership of Australia's water entitlements.

The Commissioner of Taxation reports annually to the Treasurer on the operation of the *Register of Foreign Ownership of Water or Agricultural Land Act 2015* (the Act) and is required to publish aggregate statistics of foreign ownership each year.<sup>1</sup>

This is the second report of the Water Register (Water Report 2019) and includes water entitlement registrations received from foreign persons between 1 July 2017 and 31 July 2019 for water entitlements held to 30 June 2019.<sup>2</sup>

Since 1 July 2017, foreign persons are required to register their holdings in registrable water entitlements and contractual water rights with the Australian Tax Office (ATO). A foreign person may register at any time during the year, but no later than 30 days after the end of the financial year in which the event occurred.<sup>3</sup> A person who gives a notice of registrable water entitlements must also advise if they cease to hold the entitlement or right, ceases to be a foreign person, or there is a change in the volume or the share of the water resource.

The Water Register collects details about the foreign person, including name and contact details; country of incorporation where the registrant is an entity; or nationality, passport and visa details where the registrant is an individual.<sup>4</sup>

A 'foreign person' is defined in the *Foreign Acquisitions and Takeovers Act 1975* and includes individuals and entities with foreign ownership of 20 per cent or more.<sup>5</sup> Using this definition, the Water Register captures water entitlements with a level of foreign ownership of 20 per cent or more; such entitlements are referred to as 'foreign held'.

Consistent with the principles applied in Australia's broader foreign investment regime, the details of investors are not made publicly available. The taxation law also restricts the release of information which could identify, or be used to identify, an individual or entity.

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<sup>1</sup> Section 17 of the *Register of Foreign Ownership of Water or Agricultural Land Act 2015*.

<sup>2</sup> As registrants have 30 days after the end of a financial year to update the Water Register, the amalgamation of the Water Report will include all registrations up to 31 July each year for water entitlements issued up to 30 June.

<sup>3</sup> Refer to Attachments A, B and E in this report for more information.

<sup>4</sup> Refer to Attachment E in this report for more information on data collected.

<sup>5</sup> The *Foreign Acquisitions and Takeovers Act 1975* definition of 'foreign person' is included at Attachment B.

## Methodology

The ATO has undertaken comparative analyses using information from the Water Register and the Bureau of Meteorology (BOM) information of water entitlement on issue in Australia to estimate the level of foreign ownership of water entitlements.

The BOM is required to collect, manage and disseminate Australia's water information under the *Water Act 2007* and publishes details of Australian water entitlements on issue annually in the Water Markets Dashboard on its website. The ATO uses this information to determine the percentage of Australian water entitlements on issue which have a level of foreign ownership. At 30 June 2019, the BOM reported 39,124 GL<sup>6</sup> of water entitlements were on issue in Australia.

The BOM Water Markets Dashboard does not capture water rights that are issued outside State Water Planning frameworks. The volume of foreign held water entitlements attributed in the Water Register to water rights that are outside the State Water Planning frameworks is 17 gegalitres (GL). Many of the rights issued outside the State Water Planning frameworks are within Queensland and the Northern Territory, and have been issued with zero volumes. As the 17 GL is included in the tables in the Water Report 2019, the level of foreign ownership is marginally overstated.

There are various approaches to the administration of water resources across the states and territories and as such data collected by the Water Register is not consistent across those jurisdictions. In particular, certain water licences are issued which give a volumetric limit (maximum volume of water which can be taken) where other water entitlements are issued with a nominal volume which is an average of the volume of water that may be taken in a given period. The Water Register captures water entitlements with either a volumetric limit or nominal volume according to what is issued on the individual entitlement. The BOM Water Market Dashboard only captures entitlements issued with a nominal limit. Registrations with volumetric limit cannot be separately identified in the Water Register and are included in the level of foreign ownership statistics. This difference will result in a slight overstatement of the overall level of foreign ownership when compared to the total Australian water entitlements on issue.

In the Water Report 2019 there is a total of 106 GL of water entitlements which are flagged as contractual rights (leases) held by foreign persons which are also water entitlements held by different foreign persons. This figure is not included in the tables as it would double count the water held by foreign entities.

The Water Register captures entities with foreign ownership of 20 per cent share or more, which means there may be a significant portion of Australian equity in the same water entitlement. Due to this, the share of Australian investors' equity in a water entitlement is captured by the Water Register along with the share of foreign investor equity. This is because any entity which meets the definition of a foreign person and holds a registrable water entitlement, or contractual water right, is required to register. Tables 1 to 6 and Charts 1 and 2 report on the total foreign held water entitlement on issue in the Water Register regardless of the split of equity held. Table 7.1 illustrates the top 10 countries by foreign equity in water entitlements in the register. Table 7.2 shows the split of foreign and Australian equity in the water entitlements on issue in the Water Register to indicate the level of Australian equity within the Water Register.

The statistics in this report need to be interpreted in conjunction with the methodological caveats outlined in Attachment C of this report. Figures in the tables have been rounded. Any discrepancies in the tables between totals and sums of components are due to rounding.

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<sup>6</sup> See Attachment D for a breakdown of State/Territory water entitlements on issue

## **Acknowledgements**

This report was developed in consultation with the Department of Agriculture, Water and the Environment and the Treasury, and uses information from the BOM – Water information<sup>7</sup> and the Murray-Darling Basin Authority<sup>8</sup> websites.

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<sup>7</sup> BOM website, Water information. [bom.gov.au/water/index.shtml](http://bom.gov.au/water/index.shtml)

<sup>8</sup> Murray-Darling Basin Authority website. [mdba.gov.au](http://mdba.gov.au)

# Summary of key findings

The total volume of foreign held water entitlements across Australia has increased from 4,035GL at 30 June 2018 to 4,113 GL at 30 June 2019.

Using the BOM measure of Australian water entitlements, the estimated proportion of water entitlement with a level of foreign ownership at 30 June 2019 is 10.5 per cent.

**Table 1: Foreign held water entitlement – 2 year comparison**

Water Report	Foreign held water entitlement GL	Total water entitlement on issue GL	Foreign held water entitlement as a proportion of total water entitlement on issue (%)
30 June 2018	4,035	38,674	10.4
30 June 2019	4,113	39,124	10.5

Key findings on a national basis include:

- › Water entitlements with a level of foreign ownership increased from 10.4 per cent at 30 June 2018 to 10.5 per cent at 30 June 2019
- › The main uses of foreign held water entitlement include agriculture (66 per cent) and mining (24 per cent)
- › Approximately 6 per cent of foreign held water entitlement are managed through leases (contractual rights)
- › Approximately 4 per cent of foreign held water entitlement are irrigation rights which are issued by irrigation infrastructure operators<sup>9</sup>
- › Similar to the 2018 report, the top three water entitlement holders by country are China with 1.9 per cent of total water entitlement, followed by the United States with 1.8 per cent and the United Kingdom with 1.0 per cent
- › 2,160 GL of foreign held water entitlement is within the Murray-Darling Basin. This equates to 10.8 per cent of the total Murray-Darling Basin water entitlement on issue. The Murray-Darling Basin in turn has just over 50 per cent of the total water entitlement (surface and groundwater) on issue in Australia.

Key findings on a state and territory basis include:

- › Queensland has the highest volume of foreign held water entitlements on issue with 1,301 GL
- › New South Wales/ACT<sup>10</sup> have the second largest portion by volume with 1,260 GL

<sup>9</sup> An Irrigation Infrastructure Organisation is an entity which operates for the purposes of delivering water for irrigation (*Water Act 2007*, s7(4)).

<sup>10</sup> NSW/ACT is combined as Taxation law restricts the release of information which could identify, or be used to identify, an individual or entity.

- › Western Australia has the third largest amount of foreign held water entitlement with 936 GL
- › The remaining states all have individual totals of less than 270 GL.

## Findings

Table 2.1: Foreign held water entitlement – Volume by state/territory

State/Territory	Foreign held water entitlement (GL)		30 June 2019 Total water entitlement on issue <sup>11</sup> (GL)	30 June 2019 Foreign held water entitlement as a proportion of total water entitlement on issue (%)
	30 June 2018	30 June 2019		
New South Wales/ACT <sup>12</sup>	1,306	1,260	14,990	8.4
Northern Territory	19	32	571	5.5
Queensland	1,219	1,301	6,772	19.2
South Australia	192	213	2,756	7.7
Tasmania	98	104	2,337	4.4
Victoria	205	267	7,751	3.4
Western Australia	995	936	3,947	23.7
<b>Total</b>	<b>4,035</b>	<b>4,113</b>	<b>39,124</b>	<b>10.5</b>

### Notes

At 30 June 2019 the BOM reported an aggregate of 39,124 GL of Australian water entitlements on issue with distribution by state as detailed in Table 2.1.

The 'foreign held %' is the ratio of foreign held water entitlement in that state to the total water entitlement on issue for each state and territory.

The total 'foreign held %' of 10.5 per cent is the ratio of foreign held water entitlement (4,113 GL) across all states against the total water entitlement on issue in Australia (39,124).

### Zero volume registrations

There were 681 registrations of water entitlement with a reported volume of zero. Of these, 267 were issued for gas and petroleum or mining exploration licences. Exploration licences

<sup>11</sup> BOM website, Water Markets Dashboard. 'Entitlements on issue summary – Australia.' [bom.gov.au/water/dashboards/#/water-markets/national/state/eoi](http://bom.gov.au/water/dashboards/#/water-markets/national/state/eoi)

<sup>12</sup> NSW/ACT is combined as Taxation law restricts the release of information which could identify, or be used to identify, an individual or entity.

can be granted for a specific term and allow the water entitlement holder to take and use water which might be found during exploration activities. Where the quantity of water which may be uncovered during exploration is unknown, a zero amount is stated in the registration.

Other reasons why registrants may declare a zero volume are: water monitoring bores, water search bores (such as mining or exploration), water supply works and water licences from unregulated water resource.<sup>13</sup>

**Table 2.2: Foreign held water entitlement – Volume change comparison by state/territory**

State/Territory	Foreign Held Water Entitlement		% Change
	30 June 2018 <sup>14</sup> (GL)	30 June 2019 (GL)	
New South Wales/ACT	1,306	1,260	-3.5
Northern Territory	19	32	68.4
Queensland	1,219	1,301	6.7
South Australia	192	213	10.94
Tasmania	98	104	6.12
Victoria	205	267	30.2
Western Australia	995	936	-5.9
<b>Total</b>	<b>4,035</b>	<b>4,113</b>	<b>1.9</b>

**Notes:**

Table 2.2 compares the percentage change in the volume of foreign held water entitlement as at 30 June 2019 to the volume of foreign held water entitlement as at 30 June 2018 by state/territory.

The movement in the foreign held water entitlement between each year is indicated as ‘% Change’ per state or territory.

The total movement ‘% Change’ of 1.9 per cent is the total change in foreign held water entitlement across each state/territory between the two years.

<sup>13</sup> Unregulated and regulated water resource is defined in the BOM Glossary for Water Markets Report: [bom.gov.au/water/awid/product-water-status-water-market-reports.shtml](http://bom.gov.au/water/awid/product-water-status-water-market-reports.shtml)

<sup>14</sup> Foreign Held water entitlement as reported in the [Register of Foreign Ownership of Water Entitlements – Report of registrations as at 30 June 2018](#)

**Table 3.1: Foreign held water entitlement by state/territory and resource**

State/territory Resource	30 June 2018 <sup>15</sup> Foreign held water entitlement (GL)	30 June 2019 Foreign held water entitlement (GL)	30 June 2019 Total water entitlement on issue (GL)	30 June 2019 Foreign held water entitlement as a proportion of total water entitlement on issue (%)
<b>New South Wales/ACT</b>				
Groundwater	344	342	1,959	<b>17.5</b>
Surface water	963	918	13,031	<b>7.0</b>
<b>Northern Territory</b>				
Groundwater	19	32	303	<b>10.4</b>
Surface water	-	-	268	<b>0.0</b>
<b>Queensland</b>				
Groundwater	115	117	1,080	<b>10.8</b>
Surface water	1,085	1,167	5,692	<b>20.5</b>
Undefined	19	18	NA	<b>NA</b>
<b>South Australia</b>				
Groundwater	181	176	1,558	<b>11.3</b>
Surface water	12	38	1,198	<b>3.1</b>
<b>Tasmania</b>				
Groundwater	1	1	9	<b>10.4</b>
Surface water	97	103	2,329	<b>4.4</b>
<b>Victoria</b>				
Groundwater	21	19	927	<b>2.0</b>
Surface water	184	226	6,824	<b>3.3</b>
Undefined	-	22	NA	<b>NA</b>
<b>Western Australia</b>				
Groundwater	961	899	2,962	<b>30.3</b>
Surface water	34	36	984	<b>3.6</b>
Undefined	1	1	NA	<b>NA</b>
<b>Total State/Territory</b>				
Groundwater	1,641	1,584	8,798	<b>18.0</b>
Surface water	2,374	2,488	30,326	<b>8.2</b>
Undefined	20	41	NA	<b>NA</b>
<b>Grand Total</b>	<b>4,035</b>	<b>4,113</b>	<b>39,124</b>	<b>10.5</b>

**Notes:**

Groundwater is a major source of water for agriculture, mining and industry across Australia and in some regions is the only reliable source of water. Surface water is a significant

<sup>15</sup> Foreign Held water entitlement as reported in the [Register of Foreign Ownership of Water Entitlements – Report of registrations as at 30 June 2018](#)

contributor to agriculture and other uses particularly in eastern Australia where topography and river systems have facilitated the development of agriculture and industries.

Undefined resources in Table 3.1 relate to foreign held water entitlement registrations where the resource (groundwater or surface water) was not specified by the registrant. This does not apply (NA) to total water entitlement on issue.

The 'foreign held %' is the ratio of foreign held water entitlement in that state to the total water entitlement on issue for each state and territory by resource.

**Table 3.2: Foreign held water entitlement by resource – 2 year comparison**

Resource	30 June 2018 Foreign held water entitlement (GL)	30 June 2019 Foreign held water entitlement (GL)	% Change
Groundwater	1,641	1,584	-3.5
Surface water	2,374	2,488	4.8
Undefined	20	41	105.0
<b>Grand Total</b>	<b>4,035</b>	<b>4,113</b>	<b>1.9%</b>

**Notes:**

Table 3.2 compares the change in volume of foreign held water entitlement by resource as at 30 June 2019 to the volume of foreign held water entitlement by resource as at 30 June 2018.

The movement in foreign held water entitlement between the two years is indicated as '% Change' per resource.

**Table 4.1: Foreign held water entitlement in the Murray-Darling Basin**

Murray-Darling Basin (MDB)	30 June 2019 Foreign held water entitlement (GL)	30 June 2019 Total water entitlement on issue - MDB <sup>16</sup> (GL)	30 June 2019 Foreign held water entitlement as a proportion of total water entitlement on issue - MDB (%)
<b>Surface water</b>			
Northern MDB	1,169	4,043	<b>28.9</b>
Southern MDB	748	13,484	<b>5.5</b>
<b>Groundwater</b>			
Northern MDB	12		
Southern MDB	144	2,390 <sup>17</sup>	<b>10.1</b>
MDB – Unknown	86		
<b>Total</b>	<b>2,160</b>	<b>19,917</b>	<b>10.8</b>

**Notes:**

The Murray-Darling Basin (MDB) contributes to the majority of irrigated agriculture in Australia—generally around 40 per cent of agriculture (dryland and irrigated). It covers two of the longest rivers in Australia, the Murray and Darling Rivers. The Murray-Darling Basin contains slightly over 50 per cent of the total volume of Australian water entitlement on issue (surface and groundwater) and covers over one million square kilometres.

A geographic view of the northern and southern basin can be found on the Murray-Darling Basin Authority website.<sup>18</sup> The total 30 June 2019 water entitlement on issue in the MDB is 19,917 GL with

- 2,390 GL for total groundwater in the Northern MDB and Southern MDB and
- 17,527 GL for total surface water in the Northern MDB and Southern MDB.

The data in Table 4.1 was split between Northern MDB and Southern MDB according to self-declared water system on registrations which were then mapped to the MDB. This information is for illustrative purposes only and care should be taken when comparing data from this table to other sources.

Note that Lachlan surface water is included in Southern MDB<sup>19</sup> – Surface water figures. Registrations which have groundwater systems as ‘Lachlan’ and ‘Barwon’ have been flagged as MDB - Unknown as these are categorised in both Southern and Northern MDB groundwater and the Register does not have the information to determine in which segment of the MDB these registrations should be assigned.

<sup>16</sup> BOM website, Water Markets Dashboard. ‘Entitlements on issue summary – Murray-Darling Basin’. [bom.gov.au/water/dashboards/#/water-markets/mdb/eoi](http://bom.gov.au/water/dashboards/#/water-markets/mdb/eoi).

<sup>17</sup> The BOM does not distinguish between areas within the Murray-Darling Basin.

<sup>18</sup> [mdba.gov.au/discover-basin/landscape/geography](http://mdba.gov.au/discover-basin/landscape/geography)

<sup>19</sup> BOM NWA 2012: [bom.gov.au/water/nwa/2012/mdb/contextual/physicalinformation.shtml](http://bom.gov.au/water/nwa/2012/mdb/contextual/physicalinformation.shtml)

**Table 4.2: Foreign held water entitlement in the Murray-Darling Basin – 2 year comparison**

Murray Darling Basin	30 June 2018 Foreign held water entitlement (GL)	30 June 2019 Foreign held water entitlement (GL)	Change (%)
Surface water			
Northern MDB	882	1,169	32.5
Southern MDB	738	748	1.4
Groundwater			
Northern MDB	9	12	33.3
Southern MDB	140	144	2.9
MDB – Unknown	83	86	3.6
<b>Total</b>	<b>1,852</b>	<b>2,160</b>	<b>16.6</b>

**Note:**

There is an increase in foreign held water entitlements of 16.6 per cent in the MDB as at 30 June 2019 when compared to foreign held water entitlements as at 30 June 2018. This is attributed to movement within the register (buys and sells) and an annual reconciliation of the register that identified a water system in the 2019 Water register which falls within the MDB boundary.

**Table 5: Foreign held water entitlement by regulated/unregulated water resource – Surface water**

Water resource <sup>20</sup>	30 June 2018 Foreign held water entitlement (GL)	30 June 2019 Foreign held water entitlement (GL)	30 June 2019 <sup>21</sup> Total water entitlement on issue (GL)	30 June 2019 Foreign held water entitlement as a proportion of total water entitlement on issue (%)
Regulated	2,002	2,041	19,986	10.2
Unregulated	249	338	10,340	3.3
NA or not specified	123	109	-	-
<b>Total</b>	<b>2,374</b>	<b>2,488</b>	<b>30,326</b>	<b>8.2</b>

**Notes:**

<sup>20</sup> Regulated/unregulated water resource - The terms regulated/unregulated for the flow control field on the registration form has same meaning given in the Australian Water Information dictionary used in Water Market Reports. The terms can be found at [bom.gov.au/water/awid/product-water-status-water-market-reports.shtml](http://bom.gov.au/water/awid/product-water-status-water-market-reports.shtml)

<sup>21</sup> The total water entitlement on issue for Regulated and unregulated was sourced from the Water Dashboard – Drainage Division data: [bom.gov.au/water/dashboards/#/water-markets/map?s=Drainage%20Division%20\(surface%20water\)](http://bom.gov.au/water/dashboards/#/water-markets/map?s=Drainage%20Division%20(surface%20water))

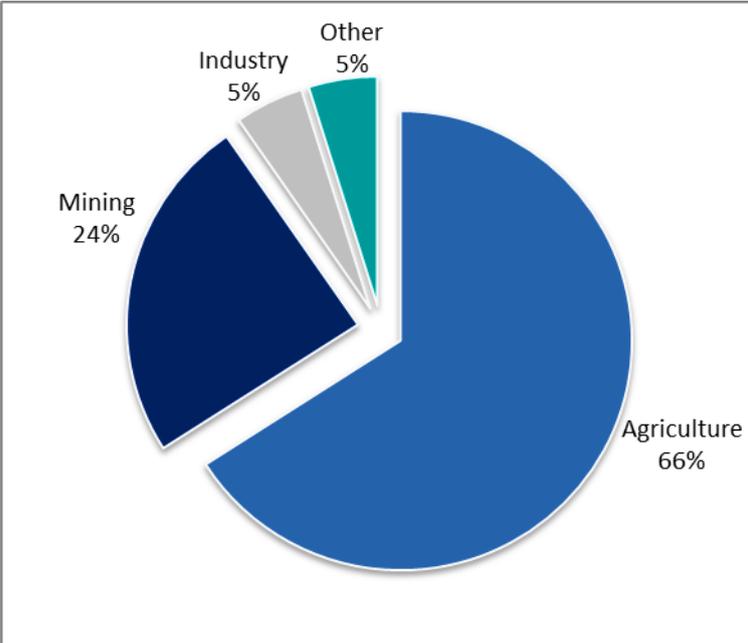
The total water entitlement on issue for regulated and unregulated is sourced from the BOM Water Market Dashboard. The dashboard only includes a breakdown of regulated and unregulated flow control for surface water.

The majority of regulated water comes from the southern Murray-Darling Basin in the south eastern part of Australia.

### Chart 1: Foreign held water entitlement by water use

The Register collects information about the use for the water entitlement. Registrants are required to register the relevant percentage of use against one or more of the 14 types of water use available on the registration form. For the purpose of this report, foreign interests by water use have been grouped into four categories as follows:

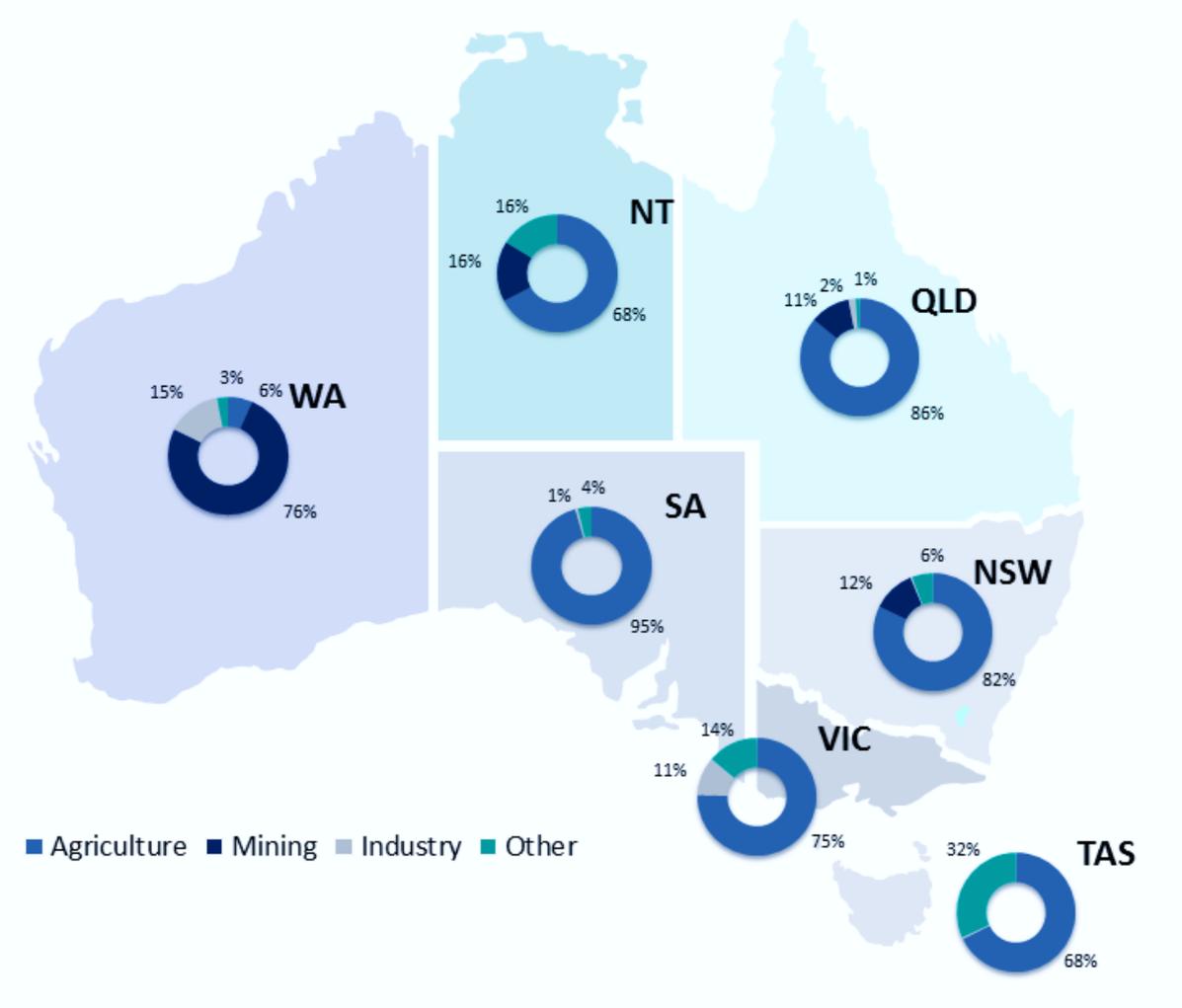
- > Agriculture which contains crops, forestry, horticulture and stock usages
- > Mining
- > Industry which contains construction, energy, industrial, manufacturing and transport usages
- > Other category which contains tourism, trade, other and research usages.



Some water usage does not fit within a particular category and registrants have appropriately listed the use as 'Other'. This includes water supply to townships for mining company employees, water used for dairy farm activities and pasture irrigation for stock feed. It should also be noted that not all industries need to hold rights to water. Food processing and other water-using industries located in or near cities and towns are likely to source their water requirements through town supply and services. Conversely, manufacturing and processing industries such as wineries which are located in rural and remote regions are likely to hold rights to water required for their operation.

Where the use type 'Other' was registered, the water entitlement was reconciled against third party information. Where a more appropriate category was confirmed (e.g. Agriculture), the Water Register was updated accordingly. Otherwise, the Water Register and the data in Chart 1 reflect the type of water use provided by the registrant. The data should only be used as an indication of water usage.

Chart 2: Foreign held water entitlement by use – state/territory



Notes:

- Consistent with **Chart 1**, the main use for foreign held water entitlement in most states is agriculture, with the exception of Western Australia, where the majority of foreign held water is used in mining.

**Table 6.1: Foreign held water entitlement by state/territory and type**

30 June 2019 Foreign held water entitlement (GL)				
State/Territory	Irrigation right	Lease (contractual right)	Water entitlement	<b>Total</b>
New South Wales/ACT	118	57	1,086	1,261
Northern Territory	-	-	32	32
Queensland	1	25	1,275	1,301
South Australia	1	1	211	213
Tasmania	8	1	95	104
Victoria	19	-	248	267
Western Australia	8	142	785	935
<b>Total</b>	<b>155</b>	<b>226</b>	<b>3,732</b>	<b>4,113</b>

**Notes:**

An irrigation right is a right a person has against an irrigation infrastructure operator to receive water. While this may be similar to a lease (contractual right) as a contract may be involved, a lease is a right that a person holds to another person's water entitlement (other than an irrigation infrastructure operator).

A water entitlement is an ongoing entitlement to a share of water from a resource plan or other water management area.

**Table 6.2: Foreign held water entitlement by type – 2 year comparison**

Type	30 June 2018 Foreign held water entitlement (GL)	30 June 2019 Foreign held water entitlement (GL)	Change (%)
Irrigation right	126	155	23.0
Lease (contractual right)	242	226	-6.6
Water Entitlement	3,667	3,732	1.7
<b>Total</b>	<b>4,035</b>	<b>4,113</b>	<b>1.9</b>

**Notes:**

The movement in the water entitlement on issue between the two years is indicated as '% Change' per category.

The foreign held water entitlement at 30 June 2019 is compared to the foreign held entitlement at 30 June 2018 to show the percentage change.

**Table 7.1: Water entitlement by country – Top 10 aggregate foreign held interest**

Country	30 June 2018 Foreign held water entitlement (GL)	30 June 2019 Foreign held water entitlement (GL)
China	732	756
United States of America	720	713
United Kingdom	411	394
Canada	212	295
Singapore	172	171
France	139	158
Switzerland	136	128
Hong Kong <sup>22</sup>	80	118
Belgium	102	102
Netherlands	92	98
<b>Total for top 10 countries</b>	<b>2,796</b>	<b>2,934</b>

**Notes**

The nationality of the registrant holding the interest in the water entitlement is collected in the register. The statistics in Table 7.1 represent the foreign country component of water entitlements held by the foreign person entity.

Only the top 10 countries are shown to avoid identification of individuals and/or entities.

The main usage of water entitlements for each country in the top 10 is determined by using the largest water usage proportion in the Register for that country. Where the percentage is close to a 50/50 split, more than one usage is given for that country.

The main usages for foreign held water entitlements of the top 10 countries above are:

- > Agriculture: China, United States of America, Canada, Singapore, Belgium, Hong Kong and Netherlands
- > Industry: France
- > Mining: United Kingdom, Switzerland and Belgium

<sup>22</sup> In 2018 Hong Kong was not in the top 10. For the purposes of Table 7.1, the total for the top 10 countries for period ending 30 June 2018 has been recalculated.

**Table 7.2: Foreign held aggregate interest of water entitlement by country**

<b>Water entitlement - aggregate interest</b>	<b>30 June 2018 Foreign held water entitlement (GL)</b>	<b>30 June 2019 Foreign held water entitlement (GL)</b>	<b>Change (%)</b>
Total for all foreign countries <sup>23</sup>	3,371	3,519	4.4
Australian portion of foreign held water entitlement	664	594	-10.5
<b>Total</b>	<b>4,035</b>	<b>4,113</b>	<b>1.9</b>

**Notes**

The foreign country and Australian portion of foreign held water entitlement is illustrated in Table 7.2. As at 30 June 2019, the Australian component of the foreign held water entitlement of 594 GL was 14.4% as compared to 664 GL of 16.5% at 30 June 2018.

**Background information on obtaining source country information**

As part of the registration information, owners are required to provide their country of nationality. Source country information has been verified using information provided by registrants, ATO data sources and manual data collection.

Where the registered owner is an individual, the nationality of the person reported in their registration is treated as the source country. Where the registered owner is a company or trust, the nationality of the beneficial owner is used to determine the source country. Where the beneficial owner is identified as an Australian citizen who is not ordinarily resident in Australia (and hence a foreign person), the source country has been allocated to the country they are ordinarily resident in.

The beneficial owner is determined by using resources within ATO and other agencies such as Department of Immigration and Border Protection and ASIC. Where shares or interests are widely held for companies or trusts, the water entitlement held is attributed to a source country based on the location of the directors or the country where the entity (or trustee) is headquartered or publicly listed depending on information available.

As a hypothetical example, Crops Partners, a foreign person, is ultimately owned by United Kingdom investors (30 per cent) and Australian investors (70 per cent). If Crops Partners has a water entitlement of 200 GL, this ownership would be reflected in Table 7.1 with 60 GL of water entitlement against the United Kingdom (which represents 30 per cent) and in Table 7.2, there would be 60 GL of water entitlement attributed to 'Total for all foreign countries' and 140 GL to 'Australian portion of foreign held water entitlement' (representing the remaining 70 per cent).

This is done to illustrate that an entity, which is considered a 'foreign person' and which registers their interest in Australian water entitlements, may also have a significant level of Australian ownership.

The attribution of a source country to a registration of foreign held water entitlement will continue to evolve as ownership changes occur over time.

<sup>23</sup> Excludes Australian equity of the foreign held ownership of the water entitlement.

# Attachment A: Background

In 2015, as part of the foreign investment reforms, the Government undertook to introduce and pass legislation to establish a Register of Foreign Ownership of Water by 1 December 2016. The *Register of Foreign Ownership of Agricultural Land Amendment (Water) Act 2016* was subsequently passed (assented to on 7 December 2016) and the Register established.

While the Commonwealth has an interest in foreign investment and the management of Australia's water resources, state and territory governments have primary responsibility for managing water resources which includes: allocating water among users; water licensing; water extraction conditions; water processing (including buying and selling conditions); and water monitoring.

Normally, foreign acquisitions of interests in water are not directly screened under Australia's foreign investment screening framework, but may be part of other types of investments that are screened. As interests in water are often attached to agricultural land, or are assets of Australian businesses, such acquisitions may be screened through the agricultural land screening requirements, or through the acquisition of securities or business assets.

When assessing the national interest in relation to foreign acquisitions in the agricultural sector, the Government considers a range of factors including agricultural productivity and reliability of agricultural production, biodiversity and environmental issues, and the prosperity of local and regional communities.

From 1 July 2017, foreign persons have been required to register their interests in registrable water entitlements and contractual water rights, and certain changes in those interests, with the ATO. A stocktake was conducted between 1 July 2017 and 31 November 2017 to enable existing foreign persons to register their holdings in water entitlements. During this time, the ATO used data matching to contact investors who may have met the definition of a foreign person and who held Australian land that may also have water entitlements. State and territory websites published articles encouraging registrations as did other water management service providers (such as irrigation infrastructure operators and regional water management organisations). The ATO developed a self-registration online form prior to the commencement of the stocktake period on 1 July 2017.

A foreign person may register at any time during the year (for example, when the event occurs), but no later than 30 days after the end of the financial year in which the event occurred.

A foreign person needs to register their interest in a registrable water entitlement or a contractual water right, when:

- › they acquire a registrable water entitlement or contractual water right under a contract where the term of the contract is likely to exceed five years after the person starts to hold the right; or
- › they become a foreign person while holding a registrable water entitlement or contractual water right under a contract where the term of the contract is likely to exceed five years after the person becomes a foreign person.

A foreign person needs to update their existing registration when:

- › they dispose of the registrable water entitlement or contractual water right;
- › they stop being a foreign person; or
- › the volume of their registrable water entitlement or contractual water right changes.

# Attachment B: Definitions

This attachment provides information on the definitions as detailed in the *Register of Foreign Ownership of Water or Agricultural Land Act 2015* and *Register of Foreign Ownership of Water or Agricultural Land Rules 2017*.

## **‘contractual water right’**

A ‘contractual water right’ is defined as a contractual right (including a deed) that a person or other entity holds (alone or jointly) to another person’s ‘registrable water entitlement’.

A contract between an irrigator and an ‘irrigation infrastructure operator’ for a volume of water is an irrigation right and not a ‘contractual water right’ even though a contract might be involved. The ‘contractual water right’ is intended to include only those entitlements which are leased or otherwise obtained from a person other than an ‘irrigation infrastructure operator’ who holds that water entitlement.

## **‘conveyance water’**

The volume of water that can be attributed to ‘conveyance water’ is the additional water that is required to deliver water to users, and includes water lost in transit from its source to end users due to seepage, leakage, evaporation or other similar effects.

Note that the exemption for ‘conveyance water’ is only available to ‘irrigation infrastructure operators’, not to individual entitlement holders.

## **‘foreign person’**

The term ‘foreign person’ is defined in section 4 of the Act. 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 not ordinarily resident in Australia;<sup>24</sup> 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, a foreign corporation or a 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.

## **‘irrigation infrastructure operator’**

An ‘irrigation infrastructure operator’ is an entity which operates for the purposes of delivering water for irrigation (*Water Act 2007*, s7(4)).

An ‘irrigation infrastructure operator’ will only be required to register water holdings and interests where the ‘irrigation infrastructure operator’ meets the definition of a ‘foreign person’, the ‘irrigation infrastructure operator’ holds entitlements to water (or portions of entitlements) that are not subject to irrigation rights, or the ‘irrigation infrastructure operator’ holds entitlements to water (or portions of entitlements) that are not ‘conveyance water’.

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<sup>24</sup> As defined in section 5 of the *Foreign Acquisitions and Takeovers Act 1975*.

### **'registrable water entitlement'**

A 'registrable water entitlement' is:

- › an irrigation right – which is a right a person has against an 'irrigation infrastructure operator' to receive water (but excludes a water access right or a water delivery right)
- › a right (including an Australian water access entitlement) conferred by or under a law of a state or territory to do either or both of the following:
  - to hold water from a water resource in Australia
  - to take water from a water resource in Australia.

A water entitlement given to an irrigator by an 'irrigation infrastructure operator' is considered an irrigation right and so is a registrable water entitlement.

### **Exclusions**

The following types of water rights will be excluded from the definition of a 'registrable water entitlement':

- › stock and domestic rights, and harvestable rights used for stock and domestic purposes
- › riparian rights
- › annual water allocations
- › rights held by an 'irrigation infrastructure operator' to the extent that either another person holds an irrigation right in relation to that right, or they are for 'conveyance water'.

# Attachment C: Methodological caveats

This is an overview of the main methodological caveats that apply to the data in this report.

- › Data was extracted from the Register on 31 July 2019 as registrants have 30 days after the end of each financial year to register movements in their water entitlement for the previous financial year. This is designed to reduce the administrative overhead for foreign persons who have an ongoing obligation to maintain records on the Register.
- › Some registrations have been altered in accordance with section 16 of the Act 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 third party data sources and manual data collection.
- › Registrants were prompted to enter the volume of water entitlements in mega litres. The ATO has vetted each registration to check the registrant has entered correct volumes into the Register.
- › Entities and trusts were required to report their country of incorporation and the nationality of the owner. 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. In some cases, the nationality or country of incorporation of a nominal investor may have been registered, rather than the nationality or country of incorporation of the ultimate beneficial owner.
- › In some instances, the same water entitlement has been registered twice - by a foreign person with the original water entitlement issued and by another foreign person with either a contractual or irrigation right. These 'duplicates' have been removed from all tables in the report.
- › Registrants are not required to identify the basin in which the water entitlement is managed. Water systems on the registration form have been taken from state/territory data. Mapping the water system to the Murray-Darling Basin was done by identifying water systems within the Murray-Darling Basin and assigning whether it is Northern region, Southern region or Groundwater. As this is a manual process, care should be taken in using the Murray-Darling Basin data.
- › Usage is determined by the registrant and more than one category of usage can be chosen during registration. Where a registrant chooses 'Other', the ATO has investigated and assigned to a different category where appropriate.

# Attachment D: Bureau of Meteorology (BOM) data

## Total State/Territory Water entitlement on issue comparison

State/ Territory	30 June 2018 State/Territory Water entitlement on issue <sup>25</sup> (GL)	30 June 2019 State/Territory Water entitlement on issue <sup>26</sup> (GL)	% Change
New South Wales/ACT <sup>27</sup>	14,971	14,990	0.13%
Northern Territory	572	571	-0.17%
Queensland	6,631	6,772	2.13%
South Australia	2,751	2,756	0.18%
Tasmania	2,284	2,337	2.32%
Victoria	7,621	7,751	1.71%
Western Australia	3,844	3,947	2.68%
<b>Total</b>	<b>38,674</b>	<b>39,124</b>	<b>1.16%</b>

<sup>25</sup> BOM website, Water Markets Dashboard. 'Entitlements on issue summary – Australia.'  
[bom.gov.au/water/dashboards/#/water-markets/national/state/eoi](http://bom.gov.au/water/dashboards/#/water-markets/national/state/eoi)

<sup>26</sup> BOM website, Water Markets Dashboard. 'Entitlements on issue summary – Australia.'  
[bom.gov.au/water/dashboards/#/water-markets/national/state/eoi](http://bom.gov.au/water/dashboards/#/water-markets/national/state/eoi)

<sup>27</sup> NSW/ACT is combined as Taxation law restricts the release of information which could identify, or be used to identify, an individual or entity.

# Attachment E: Water entitlement registration forms

Each registrant must complete the following fields:

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

## **Reason for registration**

- > Acquisition of water entitlement
- > Cease to hold water entitlement
- > Change in status: To foreign person
- > Change in status: From foreign person
- > Change in details: (change in volume)

## **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

These fields are voluntary fields as they do not apply to each registrant:

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

## **Water details**

- > Water entitlement type (Water Access Entitlement, Irrigation Right, Contractual Right, Water Access Right)
- > Issuing entity type (state water or non-water state authority, Irrigation Infrastructure Operator, 3rd party)
- > Issuing entity name
- > State/territory
- > Entitlement identifier
- > Issue date

- > Water system
- > Resource type
- > Flow control
- > Reliability
- > Volume (ML)
- > Term of Lease (if applicable)
- > Lease end date (if applicable)
- > Percentage of ownership
- > Sector/usage detail



