

# farm institute insights

Australian Farm Institute's quarterly newsletter



Australian  
Farm Institute

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## 3 Feature Article

### Property matters

Imagine paying cold, hard cash for shares in a particular company, and then being told the next day that the value of the shares had halved because the company only owned half the assets it previously claimed to own.



The ensuing outcry would be immediate, and loud. Trading of shares in the company on the stock exchange would be halted. Politicians would be jostling each other for media time to denounce the company. Investigations would be launched, current affairs programs and newspaper columns would be awash with commentary and analysis, and the company directors would be facing legal prosecution and potentially large penalties.

Despite seeming far-fetched, the above scenario is very similar to what has happened to irrigators in southern New South Wales over recent months, as the state government has compulsorily acquired, without compensation, water that irrigators have purchased and paid for in the water market. Surprisingly, this action has only received limited media coverage, despite its enormous, long-term implications, and the very major impact it has and will have on irrigators and regional economies.

Far from being an isolated incident, however, the uncompensated acquisition of farmers' property rights is a recurring event in Australia, and one that stems from some fundamental weaknesses and loopholes in Australian law. The federal and state governments have committed to address this issue by ensuring that farmers' property rights are made more secure, however, the rhetoric is yet to be translated into action.

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The February edition of the *Farm Policy Journal* examines the opportunities and threats to Australian agriculture presented by changes in, and the expansion of, Chinese agricultural production and Chinese consumers' needs.





Australian  
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# Institute Activities

## Extraordinary General Meeting

The Australian Farm Institute will be holding an Extraordinary General Meeting in Sydney on Friday, 2 February 2007 commencing at 12 noon. The meeting will be held at the Institute's offices at Suite 73, 61 Marlborough Street, Surry Hills. Individual and corporate members of the Institute are entitled to attend, but not vote at, the meeting.

The purpose of the meeting is to consider and, if seen fit, to endorse two changes to the Constitution of the Institute that the Board believes are important for the organisation's future development. These proposed changes are explained in detail on the Institute's website at [http://www.farminstitute.org.au/about\\_us/constitution](http://www.farminstitute.org.au/about_us/constitution)

## Out and about

Recently the Institute's Executive Director, Mick Keogh, has spoken at:

- the CSIRO's 2006 Fenner Conference on the Environment in Canberra, on Australia's farm-dependent economy and farm sector demography
- the Rural Research and Development Priorities Workshop in Melbourne, on agricultural research and development providing an industry perspective on research priorities
- the Nufarm Strategic Planning Workshop in Melbourne, on the changing face of Australian agriculture.

## In the news

Comments by Mick Keogh on a range of agriculture-related topics have featured in local and national press on a number of occasions in recent months, including:

- 'Farmers worried they will lose water allocations', ABC Radio, Country Hour Program, 7 November
- 'Australia joins US to bury carbon', *The Australian*, 17 November.

Mick prepared a feature article for the November edition of the *Australian Farm Journal* titled 'Global food choices are changing: can Aussie farmers meet new demands?'

## Call for papers

The May 2007 edition of the *Farm Policy Journal* focuses on the future demand and production of biofuels and asks:

'Biofuels – fuelling agricultural growth or agricultural subsidies?'

The deadline for papers is Monday, 2 April 2007.

If you are interested in submitting a paper, please contact Karen Romano on 02 9690 1388 or email [romanok@farminstitute.org.au](mailto:romanok@farminstitute.org.au)

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# Property matters

Mick Keogh, Executive Director, Australian Farm Institute

The right of individuals to own property and to have their ownership of property protected is a fundamental part of democratic, market-based economies. Reinforcing this, both the Magna Carta and the Universal Declaration of Human Rights contain clauses protecting an individual's rights to own property, and requiring that if governments remove those rights, full compensation should be paid. This principal is reinforced in the constitutions and legal systems of democratic nations around the world. For farmers, whose livelihoods depend on the rights they own to utilise land and water resources, the security of their property rights is an essential aspect of their business. Investments to improve the productivity and sustainability of farms typically have payoff periods extending over decades, and cannot sensibly be made when uncertainty surrounds farmers' future ability to exercise those rights.

Australian governments have, on occasions, expressed support for the need for more secure property rights for farmers and other users of natural resources, but to date, the rhetoric has not been translated into action. Governments continue to restrict and remove property rights in ways that damage business confidence and reduce investment to enhance sustainability.

## Recent events

On 15 October 2006, the New South Wales (NSW) Government issued a proclamation under the *Water Management Act 2000 (NSW)* that compulsorily acquired 20% of the volume of water that Murray River irrigators held in their high security and carryover water accounts, without any compensation being made available for the value of the water taken. Irrigators had already planned their cropping and production activities on the basis of the volumes of water held in their water accounts, in some cases having invested large amounts in crop plantings, and many having supplemented the amount of water they held by purchasing water from other irrigators.

*Australian governments have, on occasions, expressed support for the need for more secure property rights for farmers, but the rhetoric has not been translated into action.*

The impact of the government's compulsory acquisition of this water was potentially devastating for irrigators, many of whom faced the dilemma of either turning water off crops, orchards and pastures and allowing them to die, or purchasing additional water. Murray Valley irrigators, especially those who took the latter option and paid for additional water to top up their water accounts, were further devastated on 10 November when the NSW Government compulsorily acquired a further 32% of the water held

in irrigators' high security and carryover water accounts, again without compensation being paid. This compulsory acquisition included any water that irrigators had recently purchased and added to their water accounts.

Under sections 79 and 87 of the *Water Management Act 2000 (NSW)* the NSW Government is empowered to compulsorily acquire water licences, or to reduce the amount of water available under a licence. Compulsory acquisition of water under either of these sections of the legislation triggers compensation. However, the NSW Government utilised an emergency power under section 323 of the *Water Management Act 2000 (NSW)* – in this case, to indefinitely suspend irrigators' access to water. Section 323(4) states that:

'Nothing in this section gives rise to a claim for compensation under Section 87'.

As a result of the NSW Government's use of this particular section of the legislation, irrigators are not eligible for any compensation or redress for this loss, which has been valued at

between \$30 and \$50 million based on prevailing prices for water (*The Sydney Morning Herald* 2006).

Those irrigators most affected were the prudent managers, who had wisely carried over some of their previous year's water. Interstate irrigators who had heeded the urging of proponents of water trading and purchased additional water from NSW irrigators were also severely impacted, as were those irrigators who had invested in permanent plantations with highly efficient precision sub-surface irrigation systems costing in excess of \$10,000 per hectare. These irrigators suddenly faced the prospect of not only having much less water, but also the loss of large areas of their plantations due to trees dying from lack of water.

The NSW Government claimed it needed to implement measures to secure water supplies for towns in these regions, given the record low inflows and the very low levels of all the major storages in the region. However, by acting the way it did and utilising a section of the legislation that ensures the government will not need to pay any compensation for the removal of irrigators water, the NSW Government has instantaneously destroyed any confidence irrigators may have had in water markets and the National Water Initiative (NWI), and made the Australian Government and its Ministers look like naive amateurs when it comes to the harsh realities of water policy, Australian-style.

At the same time, all the economists, newspaper columnists and water experts, who over the previous months had been berating irrigators about their reluctance to accept increased trade in water entitlements, and especially trade between agriculture and other uses, have gone strangely silent and uttered not a word of criticism of the NSW Government's action.

Those vocal proponents of the benefits available from increased trading of water now have no more credibility than the promoters of 'shonky' property investment schemes. In fact, it is fair to suggest that investors in some of the more elaborate structured property investment schemes probably have much greater protection under consumer laws than purchasers of NSW water rights have ever had.

*... the NSW Government has instantaneously destroyed any confidence irrigators may have had in water markets and the National Water Initiative, and made the Australian Government and its Ministers look like naive amateurs ...*

The actions of the NSW Government are just the latest in a series of Australian and state government actions over the past few decades whereby the property rights of farmers have been removed, without compensation, to achieve outcomes that benefit the entire community. That such decisions continue to be made is a reflection of some basic flaws in the legal framework associated with property rights under Australian law; flaws made worse by the continuing conflict and confusion between Australian and state government responsibilities.

### The law and property rights

The law surrounding property rights in Australia is based on a number of principles that are common to property

law in other countries with an English legal heritage. These principles include legal protection to ensure a person's property cannot be arbitrarily removed by governments without due process, and also that property holders have a responsibility to ensure their property is not used in a way that results in harm to another person or their property.

Section 51(xxxi) of the Constitution states that the Australian Government has powers to acquire property on just terms from any state or person, for any purpose in respect of which the Parliament has powers to make laws. This provision of the Constitution is given effect by Commonwealth legislation (the *Lands Acquisition Act 1989*), which establishes processes by which the acquisition of land by the Australian Government triggers compensation.

This constitutional and legislative protection of property rights applies in situations where the actual title to property is acquired by the Australian Government for a public purpose, such as the building of a road. It does not apply, however, when the title to property is not acquired by the government, but some or most of the rights that are normally associated with that title are either impaired or removed.

For example, if the Australian Government decided to ban livestock grazing on a particular area of farm land to preserve a threatened species of native animal, the farmer would still own the title to the land, even though very important rights associated with that title had been removed. In such a situation, the actual title to property has not been acquired by the government, and no constitutional or legal protection is available under Australian law for the affected landholder, despite the loss of rights potentially resulting in the complete destruction of all the economic value of that title.

There have, not surprisingly, been quite a number of legal cases where the question of the meaning of

section 51 (xxxix) of the Constitution has been tested. Perhaps the most noteworthy in recent times was the Tasmanian Dam Case. In that case, the Australian Government enacted legislation to prevent the Tasmanian Government from damming the Franklin River. One of the grounds on which the State of Tasmania challenged the Australian Government was that the restrictions on the state's use of the Franklin River and nearby land amounted to an acquisition of property, thus triggering section 51 (xxxix) compensation provisions.

On this question, Justice Mason (with the concurrence of two other judges) ruled that:

'to bring the constitutional provision – Section 51 (xxxix) – into play it is not enough that legislation adversely affects or terminates a pre-existing right that an owner enjoys in relation to his property; there must be an acquisition whereby the Commonwealth or another acquires an interest in property, however slight or insubstantial it may be'.

The only dissenting judge was Justice William Deane, who considered that the restrictions imposed by the Australian Government could be substantial enough to amount to the acquisition of property, and should therefore be compensatable. Similar sentiments have also been expressed in subsequent decisions by Justice Michael Kirby. Despite these two judge's views, the High Court has so far effectively held

that unless the Australian Government actually becomes a titleholder by acquiring a property title from an individual, the just terms provision of the Constitution does not apply.

In other words, if the Australian Government removes some of the rights from the bundle of property rights associated with a particular title, then this action is constitutionally valid and no compensation is payable.

State governments are even less constrained than the Australian Government when it comes to government acquisition of property. The NSW Constitution, for example, does not contain a provision that limits the power of the NSW Government

## Compulsive acquirers

Of all Australian governments, the NSW Government probably has the most 'form' when it comes to compulsory and uncompensated acquisition of property rights.

During the building of the Sydney Harbour Bridge in 1924, for example, some 800 families living in the path of the bridge or its associated roadways were displaced without compensation.

In 1981, the NSW Government compulsorily acquired all privately owned coal rights in the state without paying any compensation, and it was only subsequent political pressure that led to the establishment of the Coal Compensation Board in 1985 and the payment of compensation to those whose property had been acquired.

More recently, in August 1995 the NSW Government enacted State Environmental Planning Policy No. 46, which compulsorily removed the property rights of many farmers, in order to generate a public benefit (the retention of native vegetation and a reduction in greenhouse gas emissions), without any compensation being payable. Only in the past 12 months has some limited 'adjustment funding' finally been made available for affected landholders, who have incurred substantial costs (estimated by ABARE to be in excess of \$500 million) to provide a greenhouse emissions benefit for the entire community.

The former Premier of NSW, Bob Carr, who enacted the above legislation, recently explained his opposition to measures that would enhance the protection of property rights. In opposing a proposed Bill of Rights for Australia, he stated:

'I'll give you another example [why a Bill of Rights should be opposed] – the right to property. As an environment Minister, I introduced laws that protected – on private land, private farmland – wetlands. Restricted what farmers could do. [Prevented them from] filling them in. We protected native vegetation, and gave [Prime Minister] John Howard the right to boast about how Australia is achieving its greenhouse targets. They're restrictions on private property rights. You stick a right to property in your constitution, and you will have a conservative Court saying 'No – governments can't place those restrictions on private landholders', (ABC Radio National – Late Night Live Program, 8 November 2006).

That the former Premier of NSW expresses views on farmers' property rights that would sit comfortably with those of the Government of Zimbabwe seems extraordinary. Equally extraordinary is the fact that this same former Premier is now employed by a major banking organisation in Australia that specialises in creating and securing property rights over utilities and infrastructure such as airports and tunnels. The returns this bank generates for investors depend on the security of those property rights, and especially their security from being compulsorily taken by government without full compensation.

to acquire a person's property without just compensation, and it appears the constitutions of other states are similarly lacking. This means that unless state legislation governing a particular issue contains a specific clause requiring the payment compensation for the acquisition or removal of property, then state governments have no obligation to pay compensation.

Even in situations, such as the recent NSW Government acquisition of water owned by NSW and interstate irrigators, where legislation does contain a requirement to pay compensation for forced removal of water rights, the clause is ineffectual if the legislation also contains other mechanisms whereby a person's property can be compulsorily acquired without a need to pay compensation. In the case of the *Water Management Act 2000 (NSW)*, while section 87 of the legislation contains a limited requirement for the government to pay compensation for the removal of a persons rights to water, section 323 empowers the relevant Minister to temporarily ban or restrict the taking of water, without any compensation being payable. In effect, this renders the compensation clause redundant, as a government needing to acquire water will invariably avoid incurring a compensation liability, if such an option is available.

The NSW Government may argue that it has not taken irrigators' water, but rather, suspended the rights of irrigators to use that water, and that irrigators will still have that water credited to their water accounts and be able to access it at some time in the future – when water is again in abundance. This is, of course, a highly disingenuous argument. An essential aspect of property rights to water, and the value of those property rights, is the timing of its availability. By summarily changing the timing of the availability of the water, a critical element of the value of property rights to that water has been destroyed.

## Australian and state government responsibilities

Adding to the need for greater protection of property rights in Australia is the changing roles of various levels of government, especially in relation to natural resource management.

*State water legislation has not been remodelled to the extent necessary to provide water entitlement holders with greater security and clear rights to compensation ...*

Traditionally, management of land and water resources has been the responsibility of state governments. This has changed over recent decades as High Court decisions such as the Tasmanian Dam Case have clarified that, as a consequence of the external affairs powers of the Australian Government, its powers extend broadly and include natural resource issues. Coupled with this change has been a progressive narrowing of the tax base of state governments, again as a consequence of decisions by the High Court, and also as a consequence of Australian Government tax reforms.

These changes, in combination with a desire for national uniformity on issues such as salinity, native vegetation management, greenhouse gas emission moderation, energy and water policy have resulted in the development of a number of policy initiatives under the auspices of the Council of Australian Governments (CoAG), of which all state and territory governments and the Australian Government are members.

CoAG agreements, such as those underpinning the *National Action Plan for Salinity and Water Quality*, the Natural Heritage Trust, and the NWI, typically involve the Australian and state governments agreeing to implement a series of reforms, with the national government contributing the bulk of the funding, but conditional on the state governments undertaking the agreed reforms.

While, in theory, coordinated national reform programs should deliver better outcomes than piecemeal state-based programs, the NWI presents a classic case study why this is not the case – especially from a natural resource user's perspective.

Under the NWI, the broad 'compact' between water users and governments was that water reforms would be implemented to improve the sustainability of water resources and to return water to the environment, and in return, irrigators would receive secure property rights to water, including the right to compensation should their rights be diminished as a consequence of government actions. However, this has not happened in practice, as recent events have clearly so demonstrated, despite numerous clauses in the NWI agreements referring to the need for secure water access entitlements; for the enhancement of '*commercial certainty of water access entitlements*'; and for water access entitlements be able to be '*traded, bequeathed, subdivided, leased, be mortgageable (and in this respect have similar status as freehold land when used as collateral and for accessing finance)*'.

State water legislation has not been remodelled to the extent necessary to provide water entitlement holders with greater security and clear rights to compensation, and in the case of the NSW legislation, there are gaping 'back doors' that effectively allow governments to take water from irrigators without compensation.

The National Water Commission, – the body set up to manage the NWI and presumably to ensure the parties to the initiative meet their obligations – has been critical of the actions of the NSW Government. In a recent statement it said:

‘The Commission is very aware of the acute concern the recent NSW decisions have caused for water entitlement holders in NSW and across the southern Murray-Darling Basin, particularly for those entitlement holders who had already purchased or held over water (since July 2006) to hold them manage for the dry conditions’.

The Commission further stated:

‘Security of water access entitlements is a key tenet of the National Water Initiative, and such security is challenged by decisions to reduce water allocations carried over or traded into accounts. Under the National Water Initiative NSW has agreed to clearly specify entitlements, and to foster a soundly based and confident understanding of these entitlements by entitlement holders. The recent events call into question management of water entitlements and allocations in NSW, particularly in a period of extreme water scarcity’ (National Water Commission 2006).

Despite this statement, no action has been taken by the National Water Commission to penalise the NSW Government for its actions, or to force it to reverse its decisions or pay water entitlement holders full compensation for the forced acquisition of their rights.

That the National Water Commission has been less than rigorous in requiring state governments to meet their obligations under the NWI should not be surprising, as the Australian Government has a similar track record when it comes to meeting the obligations of holders of property rights. The experience of landholders whose rights to manage native vegetation were summarily removed by state governments at the urging of the Australian Government without compensation during the 1990s, provides a salutary lesson.

After years of agitation from farm groups, the Australian Government finally directed the Productivity Commission to examine the impact of native vegetation and related regulations, and a report was released. In the report the Productivity Commission (2004) recommended that:

‘Over and above agreed landholder responsibilities, additional conservation apparently demanded by society (for example to achieve biodiversity, threatened species and greenhouse objectives), should be purchased from landholders where intervention is deemed necessary and cost-effective’.

In response, the Australian Government stated that it agreed with the recommendation:

‘It is the Australian Government’s position that, prior to the removal of landholders’ rights, state and territory governments must consult

fully with landholders and any other interested parties, and meet any legal requirements for direct compensation to property rights holders. This is a precondition before the Australian Government will consider adjustment assistance’ (Australian Government 2004).

While the words of the Australian Government may be superficially comforting, in effect they are worthless. The above commitment was only made after landholders rights had already been removed by state governments, at the urging of the Australian Government. In addition, as earlier discussion has highlighted, no legal requirement to pay compensation exists within the relevant state legislation, and therefore no legal requirement for compensation exists. Finally, the statement only represents a commitment by the Australian Government to ‘consider’ adjustment assistance, not to pay compensation for rights that have been taken to provide a public benefit.

## Property rights and markets

Irrespective of the strict legal interpretation of the rights and responsibilities of governments and resource users, ultimately the issue boils down to one of trust and confidence. If governments wish to encourage the owners of property rights over natural resources to invest in management strategies and technologies that enable more

## The Prime Minister on property rights

‘There must also be a clear understanding that compensation should be paid where individuals give up property rights in the broader community interest. This payment of fair compensation is not negotiable as far as the Coalition is concerned. The Coalition will ensure that the next COAG meeting addresses definitions of property rights, including water rights, and mechanisms to deliver just compensation for the loss of these rights’ (John Howard, Press Release, 1 November 2001).

‘Governments must come to grips with issues such as river health and efficiency of river irrigation systems. In many cases, water related issues are as pressing in the cities as they are in regional Australia. Importantly, co-operative effort between governments at all levels, industry sectors and local communities, pulling together, will be needed to fast-track the behavioural and structural changes required for the future. This is already the essence of our approach. The Natural Heritage Trust gives resources and accountability directly to local communities to fix local problems and this emphasis on community ownership is also the foundation of our Action Plan on Salinity. In the process the property rights of individual Australians must be fully respected. The right to compensation must be included in our policy prescriptions’ (National Press Club, 1 August 2001).

sustainable long-term generation of wealth, then the owners of those property rights need to be able to trust governments not to act in ways that result in those rights being unfairly removed or devalued.

In the past, farmers and other owners of property rights over natural resources have made investment decisions largely on the basis of trust. While governments may have held a wide range of powers in relation to land and water use, their utilisation of these powers was usually careful and considered, in recognition of the potential damage to business confidence that would arise if ill-considered decisions were made.

In recent years, some actions by governments have enormously damaged the value of property rights held by some farmers and irrigators, and in the process completely destroyed any trust the owners of those property rights may have had in governments. While governments may argue that eventually adjustment assistance has occasionally been provided, the fact that this has only occurred after long and bitter campaigns, and is often only of a quite limited extent relative to the losses that have occurred makes the lack of trust even greater. This lack of trust and confidence has a range of implications, and will ultimately result in underinvestment in long-term measures to improve natural resource sustainability.

Restoration of trust and confidence will not occur until the Australian and state governments implement very clear and unqualified rights to compensation, for those whose property rights are removed or

impaired as a result of actions by government. The right to compensation needs to be clearly spelt out in all relevant legislation.

*Restoration of trust and confidence will not occur until the Australian and state governments implement very clear and unqualified rights to compensation ...*

This issue is of growing importance, as a consequence of the increased reliance governments are placing on the use of markets to bring about improvements in natural resource sustainability. Markets and market-based instruments are being used or trialled to achieve outcomes such as biodiversity conservation; salinity mitigation; improvements in air and water quality; and reductions in greenhouse gas emissions.

Overseas experience indicates that, given the right policy settings, these markets can grow very quickly and be extremely effective in achieving desired environmental outcomes at least cost to the community. However, natural resource markets – such as the proposed National Greenhouse Gas Emissions Trading Scheme – will not develop whilst governments fail to enact legislation that ensures compensation will automatically be triggered in the event that future government actions

remove or impair the rights of investors in those markets.

If the Australian Government is looking for actions that might help to rebuild the confidence of holders of property rights, it needs to start in its own backyard. Amending the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* to insert a compensation clause for owners of property rights adversely affected by that legislation would be an excellent start. It then needs to make it mandatory for state governments to insert property rights compensation clauses in their land and water management legislation, and to remove any clauses negating a requirement to pay compensation for removed rights, before any funds are made available under national programs.

## References

Australian Government 2004, Government responses to the recommendations arising from the Productivity Commission inquiry into native vegetation management in Australia.

National Water Commission 2006, *Water allocation decisions in NSW*, media release, 7 December.

Productivity Commission 2004, *Impacts of Native Vegetation and Biodiversity Regulations*, Report No.29, Melbourne.

*The Sydney Morning Herald* 2006, 'Water thieves leave farmers parched', 12 December. 

# Farm Policy Progression

A summary of some Australian and international farm policy developments

## Agriculture snubbed in PM's Emissions Taskforce

The Australian Government has overlooked agriculture in selecting its 12-member Emissions Trading Taskforce, which has the task of finding ways in which Australia can reduce greenhouse gas emissions without sacrificing its trading advantages in traditional energy areas such as fossil fuels.

The taskforce has been criticised for being 'stacked' with mining, manufacturing and energy interests. The exclusion of agriculture from the taskforce has dealt a serious blow to agriculture according to the National Farmers' Federation (NFF).

The NFF responded to the announcement by highlighting the contribution agriculture has already made, and stands to make, in terms of being a carbon sink for any emissions trading framework. According to NFF President, David Crombie:

'... it is clear that the Prime Minister's taskforce is missing the boat – opting to embrace those sectors that represent the problems, and excluding many of those who may offer solutions.'

The taskforce met for the first time in December with Mr Howard and soon after the Prime Minister announced the group would issue a discussion paper in February, to which interested parties, including environmental groups, the renewable-energy sector and the states, would be invited to respond. There is at least some hope that this provision will enable the voice of agriculture to be heard in any future decisions concerning the design of a national greenhouse emissions trading scheme.

## First city outside US joins Chicago Climate Exchange

The City of Melbourne joined the Chicago Climate Exchange (CCX) on 18 December 2006, and in doing so became the first city outside the United States (US) to join.

The city joined the CCX as a sign of its commitment to reduce its baseline greenhouse gas emissions, according to the Melbourne Lord Mayor, John So:

'Establishing a city-based emissions trading scheme is a key recommendation of our Zero Net Emissions by 2020 strategy. Membership of the Chicago Climate Exchange will help us gain experience and knowledge in emissions trading activities and programs and prepare us for involvement in any future Australian emissions trading schemes. Membership also provides Council with the potential to sell carbon credits should it choose to in the future'.

Dr Richard Sandor, Founder and Chairman of the CCX, applauded the vision and leadership of Melbourne.

Melbourne Environment Committee chair Councillor Fraser Brindley said membership of the Exchange would require Council to adopt more rigorous reporting methods that would result in a larger emissions profile:

'We have decided to take the short-term pain in order to get the long-term benefits of a tighter reporting system and, of course, the knowledge and experience gained through membership of the Exchange'.

The City of Melbourne plans to include both its direct and indirect emissions in the program, believing that this will provide a true reflection of Council's greenhouse footprint. The Council hopes to set up a consortium

of Melbourne metropolitan local government councils with the goal of aggregating emissions for possible trading on the CCX.

## Future of wheat marketing arrangements in limbo

The Australian Government's decision to strip AWB of its power to veto wheat exports, following the Cole Inquiry into the company's roting of the United Nations oil-for-food program has been welcomed by some Australian farmer groups. However, many warn that the key challenge ahead of the review of the single desk trade system will be to take account of the wide variety of views that exist within the industry.

The Minister for Agriculture, Peter McGauran was given the right of veto over wheat exports until a final decision is made on the future of the AWB's control of the single desk. The Government has committed to consult with growers in the next few months on future wheat marketing arrangements. It has now established a committee consisting of former NFF President Peter Corish; Australian Farm Institute Chairman John Ralph; former Woolworths CEO Roger Corbett; and former National Australia Bank CEO Mike Carroll, to conduct a consultation process with growers and to make recommendations to the Government about future wheat marketing arrangements.

## Proposed new Qld irrigation licences prompts outcry

A plan to create new irrigation licences in south-west Queensland has caused outcry from drought-parched areas of the Murray-Darling Basin.

The Queensland Government is planning to auction new irrigation licences to farmers on the Warrego River near Charleville, which currently has 2% of its flows committed to agriculture. The river is often dry, but is prone to flooding in periods of high rainfall. As such, the new licences will only allow capped extractions to occur during periods of high water flow.

Public concerns about the idea has prompted Federal Parliamentary Secretary for Water, Malcolm Turnbull, to instigate an inquiry into whether the proposal breaches the National Water Initiative:

‘I’ve asked the National Water Commission to look into it, talk to the Queenslanders and come back to me with a report’.

### Interstate water trade along the Murray a reality

Victoria, NSW and SA have agreed to expand permanent interstate water trade along the Murray and its tributaries under the National Water Initiative.

NSW and SA were the last states to reach agreement to support the development of permanent interstate water trading rules. The NSW Minister for Natural Resources, Ian Macdonald, and SA River Murray Minister, Karlene Maywald, announced the deal on the basis of an Australian Consumer and Competition Commission (ACCC) report in November.

Ms Maywald considered the comprehensive work of the ACCC on access, exit and termination fees as crucial to the agreement.

Victorian Environment Minister John Thwaites said the agreement was a major step in creating a robust water trade across state borders in the Murray River system:

‘With the permanent market operating between all three states, water can be traded to its most productive use, benefiting communities and the wider economy’.

The states now look forward to the Commonwealth committing substantial funds to National Water Initiative projects.

### Australia to strengthen bilateral relationship with Chile

Chile will be added to the growing list of nations with which Australia is negotiating a free trade agreement.

Minister for Foreign Affairs, Alexander Downer, and Minister for Trade, Warren Truss, held talks with Chilean Foreign Minister, Alejandro Foxley, in November last year, discussing ways to further strengthen the bilateral relationship between the two countries. Mr Downer said:

‘We believe it is in the interests of both countries to strengthen and diversify our economic relations and cooperation, and for that reason we have undertaken to commence the necessary steps towards a high quality and comprehensive bilateral free trade agreement’.

Chile is Australia’s fourth largest merchandise trading partner in Latin America, with approximately 120 Australian companies trading with Chile and about 70 companies having a presence in Chile.

### Hope for stalled Doha round talks

After five years of troubled negotiations, the Doha Development Round, aimed at freeing global trade and at extending the benefits of globalisation to developing countries, has been revived following a January 8 meeting between the US and the European Union (EU). ‘We are clearly making progress’, stated US Trade Representative Susan Schwab.

EU Trade Representative, Peter Mandelson, and US President, George Bush, have both signalled that the EU and the US are closer to a deal than was commonly thought.

According to Mr Mandelson:

‘After a series of meetings of senior officials it is clear that the gap between us on agriculture is no longer such to dismiss hope of a successful outcome. We are not that far apart to give up on the process’.

The optimism follows ongoing US-EU negotiations aimed at narrowing differences on agricultural subsidies and tariffs. The meeting marked the highest level effort to reach a deal since talks were suspended in July 2006 after six major entities, including the US, the EU, Brazil and India, failed to reach agreement.

US and EU officials hope to outline a final deal with Brazil and India at the World Economic Forum in Davos. If agreement is reached, the circle of countries included in the talks would widen providing major trading nations such as Australia with an opportunity to participate in policy-level discussions.

### EC backs down on WTO biotech food ruling

The European Commission (EC) elected not to appeal a World Trade Organization (WTO) ruling that European countries broke international trade regulations by preventing imports of genetically modified (GM) products.

The EU recently signalled its intention to ignore the WTO’s finding that its six-year moratorium on the products beginning in 1998 violated international rules, claiming that it ended the moratorium in 2004 when it allowed onto the market a modified strain of sweet corn. EU trade negotiator, Raimund Raith, argued that there is no basis for claiming that the EU is maintaining a moratorium.

Despite these claims, US officials remain unconvinced that the moratorium on GM products has been lifted and that all applications for approval are being decided on scientific rather than political grounds.

The US and others may launch another dispute to challenge EC rules that require labelling and traceability of GM foods.

## US ethanol boom impacts on corn exports

A new report issued by the Institute for Agriculture and Trade Policy (IATP) warns that up to half of corn in Midwest states of the US currently sent for export could be diverted to domestic ethanol production.

According to the IATP report, corn-based ethanol production in the US doubled between 2001 and 2005 and is likely to double again in the next few years. The US Department of Agriculture has stated that much of the corn required for this level of ethanol production will be diverted from exports. This has raised concerns of a potential increase in food prices and has resulted in some groups calling for intervention by governments.

Lester Brown of the Earth Policy Institute said:

‘There is a need for a moratorium on the licencing of new distilleries while we catch our breath and decide how much corn can be used for ethanol without dramatically raising food prices. The policy goal should be to use just enough fuel ethanol to support corn prices and farm incomes, but not so much that it disrupts the world food economy’.

However, National Corn Growers Association Chief Executive Officer Rick Tolman considered Brown’s accusation unjustified:

‘Ethanol demand has little or no impact on food prices. In the past five years, for example, there has been no correlation between average farmgate corn prices and retail meat prices’.

The shifting use of corn is posing a problem for others. A US analyst claims that as a result of higher corn prices, it is no longer profitable to raise cattle and may exacerbate the shift in livestock and poultry production to countries such as Brazil.

IAPT officials recommend that the forthcoming US Farm Bill embraces the promise of ethanol and tackles the challenges it poses.

## Farmers weigh in as 2007 Farm Bill draws closer

The clock is ticking already on the 2007 US Farm Bill, which will govern federal farm policy and subsidies for the next five years. The details of this complex, multi-sectioned bill, which also covers topics like conservation and food stamps, must be worked out before the current bill expires in September 2007.

Several farm groups have strongly endorsed a continuation of current policies and programs. However, agriculture and rural interests not receiving much benefit from current programs oppose a simple extension and would like some of the spending to be aimed at solving their problems. Many groups submitted comments about how the Farm Bill can be improved.

Comments on the 2007 Farm Bill are now closed. US Department of Agriculture Officials are currently in the process of analysing comments and intend to develop recommendations for the new 2007 Farm Bill.

## NZ considers forestry options to reduce carbon footprint

The New Zealand (NZ) Government is designing a comprehensive approach to tackling the threat of climate change, with a significant forestry planting program involving thousands of hectares being one of the options being put forward to reduce the country’s carbon footprint.

The Minister for Agriculture and Forestry, Jim Anderton, and Climate Change Minister David Parker recently released the discussion document *Sustainable Land Management and Climate Change*, which outlines policy options to address the risks and opportunities

of climate change in the land management sectors.

Mr Parker said that over time, all sectors of the economy would have to play their part in addressing climate change:

‘We recognise that some sectors can take action more quickly to reduce emissions than others. But even those like farming, which are constrained by what they can do without affecting productivity, will be expected to take some actions to reduce emissions – starting now’.

The discussion paper presents some specific ideas for feedback, especially in the area of reducing emissions.

The NZ Government is proposing that industry sectors and government work together to develop a ‘Plan of Action’ identifying goals and activities for dealing with climate change issues. The policy package will be discussed with the sector before final decisions on policy are taken this year.

## Canadian farmers develop novel postcard campaign

A postcard campaign has been launched by the Canadian Federation of Agriculture (CFA) to convince the federal government to listen to farmer-developed farm policy solutions.

Addressed to the Prime Minister, the Agriculture Minister and to local Members of Parliament, the postcards call on government to work immediately on putting in place competitive policies similar to those of other countries. CFA President, Bob Friesen, believes the campaign will make government leaders realise that the proposals being put forward by Canadian farm organisations were developed by farmers who know first-hand what they need from their safety net programs.

The postcard urges the government to work with farmers to explore new farmer-developed safety nets proposal. 

# Following on – Australia's FDE

Recent droughts have highlighted the importance of agriculture

In 2005, the Australian Farm Institute released a research report, by economic consultants Econtech, that attempted to quantify the full economic role of the agricultural sector in the Australian economy.

The report – *Australia's Farm-Dependent Economy* – utilised Australian Bureau of Statistics (ABS) input/output data over a five-year period to estimate the size of those sectors of the economy that have a strong dependence on agriculture – either because agriculture purchases inputs (goods or services) from those sectors, or sells farm products to those sectors.

Due to the nature of ABS statistics, a number of assumptions and arbitrary decisions were made in defining how much of the economy has close links with agriculture. The research identified that agriculture contributed 3.1% of Australia's Gross Domestic Product (GDP). It also identified that a further 0.8% of national GDP was generated by those parts of the economy that could be defined as the 'farm input' sector, while a further 8.1% of national GDP was being generated by those parts of the economy that were reliant on agriculture for a significant proportion of their inputs.

While the research was able to quantify the size of those sectors of the economy that are closely linked with agriculture, it did not attempt to analyse the impact of changes in farm sector output on either of these sectors of the economy. The main objective was to highlight that the agriculture sector is increasingly entwined with other downstream and upstream sectors of the economy, and that 'shocks' impacting on the farm sector also have a broader impact on the national economy – something which seems to be regularly overlooked.

Recent droughts, and in particular the current drought, have brought this issue to the fore, and a variety of government agencies, politicians and economic forecasters have engaged in a debate about the full impact of the drought on national economic performance. The Government has been anxious to highlight the negative impact of the drought on the national economy as an explanation for reduced national GDP growth, while the Opposition claims that the Government has exaggerated the impact of the drought, and that other factors are causing the slowdown.

The ABS, in a release on 14 December 2006, forecast that as a result of the drought, farm GDP for 2006–07 would be lower by \$4.4 billion or 16.7% compared with the previous year, with most of this impact occurring as a result of reduced grain production. The ABS suggested that this would directly reduce national GDP by 0.5%, but did not attempt to estimate the indirect effects of the drought on national economic output.

The Australian Government's mid-year Economic and Fiscal Outlook, released on 20 December 2006, projected that the drought would reduce agricultural output by 20%, or \$4.9 billion for 2006–07, and the downturn in agriculture and related sectors would result in a reduction in national economic growth of about 0.75% of national GDP, reflecting both direct and indirect impacts of the drought.

Based on the Treasury estimate, the forecast \$4.9 billion reduction in farm GDP will result in a \$7.2 billion

reduction in national GDP. This means that for every \$1 decline in farm GDP, there is forecast to be approximately a \$1.50 decline in national GDP.

In an earlier study based on the impact of the 2002–03 drought, the Australian Government Treasury Department estimated that the 24.3% reduction in farm GDP that occurred as a result of that drought reduced national GDP growth by around 1%. In that instance, a reduction of \$6.5 billion in farm GDP was estimated to result in a reduction of \$8.4 billion in national GDP, or a decline of \$1.32 in national GDP for every \$1 decline in farm GDP. There was some speculation that, in that instance, the reduction in farm GDP was moderated by the very high farm GDP that was experienced in 2000–01, meaning that the reduction in farm spending during the drought was less than anticipated.

The economic impact of a drought will vary enormously depending on its extent and duration, the impact it has on various farm commodity sectors, and the preceding and prevailing economic situation. As a result there is no 'correct' estimate of the likely economic impact. Official recognition that drought impacts extend well beyond the farm sector is a welcome development, even if the estimates of likely impacts are somewhat inexact.

While there was some criticism of the way in which the Econtech research was interpreted, growing official recognition in recent years of the broader economic impact of farm sector shocks can perhaps be attributed to that report. 

# Institute Research and Events

Excerpt from Australia's Chief Scientist's Strategic Roundtable dinner

Some of the most influential leaders of Australian agriculture gathered in Sydney in early November 2006 to discuss the opportunities and challenges facing the agricultural sector over the next decade. A highlight of the event was the dinner address given by Australia's Chief Scientist, Dr Jim Peacock. The following is an excerpt of his address titled: *The future of agriculture – a dependence on science.*

'Today's agriculture is a high-tech, market-responsive business, but it certainly cannot stand still. It is important for Australia that a competitive edge is maintained against countries which are investing heavily in their agribusiness systems (eg Canada, the United States, Brazil, Argentina and several European countries). Many of these, because of their research investment opening up new opportunities, will be even more vigorous competitors to Australian agriculture than they have been.

As well as being dependent on effective market information and performance, agricultural success depends on the interaction of three major components at the production level. At the farm level it depends on the genetic makeup of the production organisms, the management skills of the producers themselves and on environmental issues – primarily climate, soil and water.

Climate change is something that agriculture needs to address in a serious way and plan for the future. I think it is generally recognised now that average temperatures are rising and this will affect different regions in Australia differentially. You have probably seen in recent media coverage that agricultural industries should consider moving northward as rainfall reduces somewhat in the southern parts of Australia, both east and west. We need to look at

regional climate predictions in detail. We will have much more information on this in the coming year. The international body considering climate change will be reporting early next year and then Australian information on regional expectations will be available at a far more detailed predictive level than we have had in the past.

In regard to the simplistic notion of moving agriculture north, there are a few things I'd like to say. First of all, one of our major crops, cotton, can fit into a more tropical production region. Over the last several years, researchers have developed a very satisfactory management system for a cotton industry in northern Australia. The new system differs markedly from that which was employed in the failure of cotton in the Ord in the late 1960s to early 1970s.

Cotton would now be grown in the dry season, not the wet season; irrigation and fertilisation systems have been worked out. We have the advantage of insect and weed protection systems built into the modern transgenic varieties. Good yields and quality can be achieved. The major blocks are the lack of infrastructure and the difficulties surrounding land rights. These issues can be overcome and Australia has the potential to develop a significant new area of cotton production in northern Western Australia, the Northern Territory, and Queensland. Why aren't we moving on this?

For other crops from the more temperate regions, such as wheat and canola, research is needed to explore the temperature limitation thresholds and the thresholds for other environmental factors for any projected move northwards.

Recently I heard of the development of a sugar beet variety which could be grown successfully in tropical areas; this has been trialled extensively in India. I wouldn't like to say for any of our crops that the climate and environmental limitations have been fully explored. We need to initiate a focused research effort to define the potential of different crops – some will have biotic and abiotic limitations and most will have reduced yield potential relative to those applying to the temperate regions. There are not large areas available so the crops would necessarily be of high-value.

Another approach is to adapt our various crop species to the changing situations in the regions where they are currently growing. There's a good deal of flexibility in the development of new tolerances to water and climate challenges, especially as a result of new knowledge of the developmental and functional performance of plants which has been derived from the new biology in the last decade. Ingenuity and management creativity of the farmer will also play a large role – already the plantings of water efficient crops such as sorghum are increasing.

Plant breeding has traditionally made great use of genetic variation from wild populations of crop species and from the wild relatives and progenitors of crop species. This has been important in the acquisition of genes providing resistance to pests and pathogens in many crops. New DNA technologies and knowledge of genome compositions promise us greater access to the extensive ranges of natural variation which exist. It is likely that the genetic composition of our production species will be able to be adjusted to cope with the challenges presented by changing climate.

In most crops, and it is much the same in animal agriculture, the improvements in yield and value over the years mostly are 50% due to improved genetics and 50% due to improved management. Management improvements have depended on the greater capacities for researchers to transfer information to farmers. The deployment of decision support systems which provide an optimisation of research information in a convenient way have been important.

My prediction is that the genetic component of improvement in yield and value will dominate over management in the next few years. Let me give you a couple of reasons why.

We are entering an era where agriculture and the production of food is expected to be an important component of public health and preventative medicine. The new biology, as it translates into the new agriculture, can provide us with the means of contributing to the health condition of populations both in developing countries and in developed countries such as Australia.

One of the major public health concerns in developing and developed countries is diabetes II. This is a major

threatening epidemic of this 21st century. It's already increasing rapidly in frequency in India, Bangladesh and some African countries as well as in the US and Australia. It is a major problem in the Oceanic and Pacific regions.

The conservative expectations suggest that by 2025 there will be well over three hundred million cases of diabetes II and when you add on the pre-diabetic conditions, we're talking about a billion people.

This particular health problem leads to a debilitation in the general economic potential of a country since many of the sufferers are in their prime working age. It's a very serious problem.

How can agriculture help? One of the main diet causes of diabetes II is the consumption of high glycemic index carbohydrates. Rice is a good example. It's the staple food of more than a third of the people in the world and these people suffer from a number of nutritional deficiencies including vitamin A deficiency and iron deficiency. Both of those diseases are being tackled by genetic modifications to rice which should provide a sufficient level of vitamin A precursors and bio-available iron in the grain. The main cause of the high glycemic indices of rice grain is the nature of the starch. We now know a lot about the biosynthesis of the starch, and can predict and select for changes in starch structure and composition to achieve a low glycemic index.

Starch can also be adjusted to provide a higher proportion of resistant starch molecules – this has positive influences on the health of the colon. Colonic cancers are another of the advancing diseases of our society. These modifications in cereal grains, in wheat, maize, and barley, as well as in rice, will

deliver huge benefits to large numbers of the world's population and will provide large reductions in the burgeoning health expenditures in many countries.

There are other shortfalls in many of the cereal grains such as level and composition of protein. Breeders have been able to make some nutrition adjustments; maize is probably the best example of enhanced protein value but it's the new tools of genomics, proteomics and metabolomics that are providing us with the ability to adjust grain makeup so that it's optimised to human nutritional requirements.

In telling you about this I have implied that we will be using genetic modification technologies to ask questions and define what needs to be done and how it might be achieved. True, but in many cases once this is done in the laboratory we will produce sophisticated diagnostics that will enable the new objective of high nutritional value to be achieved with non GM technologies – conventional breeding technologies. I don't think this is widely realised. I believe it will be of great value in our future agriculture.

Some adjustments that we should make will require GM technologies, so I don't want to minimise the necessity for our society to realise the great benefits that can be achieved with GM crops and food. Unfortunately, much of the disquiet around GM crops in Australia and elsewhere results from misinformation and the failure of decision-makers in agriculture and politics to realise that the benefits vastly outweigh the risks, which for the most part have been proposed without any justification. ...'

The Chief Scientist's full address can be viewed at [www.farminstitute.org.au/publications/](http://www.farminstitute.org.au/publications/) 

# Farm Policy Journal

## China – emerging opportunity or emerging threat?

With the largest population of any country, trade liberalisation and rapid economic development, China represents a potentially lucrative market for Australian exports. However, China is also one of the world's largest producers of a broad range of agricultural commodities and negotiations are still ongoing for a free trade agreement between the two countries.

The February edition of the *Farm Policy Journal* examines the opportunities and threats to Australian agriculture presented by changes in, and the expansion of, Chinese agricultural production and Chinese consumers' needs.

**Fred Gale** is a Senior Economist with the United States Department of Agriculture's Economic Research Service. He discusses China's agricultural production and trade performance in the five years since it acceded to the World Trade Organization in 2001. He goes on to consider limitations on China's farm production capacity and concludes that, despite a history of cycling between periods of openness and self-reliance, the realities of resource scarcity will push China to become a key member of the global trading community during the 21st century.

**Dr Jikun Huang** is Director of the Center for Chinese Agricultural Policy (CCAP) of the Chinese Academy of Sciences, and Professor at the Institute of Geographical Sciences and Natural Resources Research in China. Together with his colleagues Jun Yang also of the CCAP and Scott Rozelle of Stanford University, he examines the implications of China's economic growth for Chinese agricultural imports and exports, and for trading partners including Australia. The paper includes projections up to 2020 for various commodity categories, based on two economic growth scenarios. It

is predicted that Chinese agriculture will gradually shift from land-intensive sectors to labour-intensive sectors and that while China will play an increasing role in world markets, overall food self-sufficiency will remain high.

**Michael Clarke** is an agricultural economist and principal consultant with AgEconPlus. He reviews the development of China's dairy industry; the opportunity for Australia to export dairy cattle to China; and the potential pitfalls of such trade with China. His paper gives an insight into demand for dairy products in China, current Chinese production levels and the policy approach of the Chinese Government, as well as the practical aspects of trade with China, such as requirements for pedigree data.

**Ivan Roberts** is a Senior Economist with ABARE's International Branch. Together with his colleagues David Barrett and Neil Andrews, he considers the prospect of increased Australian exports to China in light of: food consumption trends in China; land use change in China; slowing rates of agricultural production growth; environmental concerns including high levels of fertiliser usage and the uneven distribution of water resources across China; and trade policy issues.

**Professor John Longworth** from the University of Queensland's School of Natural and Rural Systems Management has authored or co-authored nine books on China.

His paper discusses the ongoing negotiations for a free trade agreement between China and Australia, and the implications of the proposed agreement for Australian agriculture. In particular, he analyses the political, social and economic reasons behind China's reluctance to grant to Australian agricultural exports preferential exemption from quotas and other trade barriers.

**Craig Burns** is the Executive Manager of the International Division of the Department of Agriculture, Fisheries and Forestry. His paper considers the growing demand for improved food quality and safety standards associated with changes in consumer preferences arising from economic growth in three key developing export markets (China, Malaysia and ASEAN) with whom Australia is currently negotiating free trade agreements (FTAs). The paper discusses the role that FTA measures play in resolving the increasing number of sanitary and phytosanitary issues affecting international agrifood trade. He also addresses the common misconception that such agreements compromise Australia's strict level of sanitary and phytosanitary protection.

The February edition of the *Farm Policy Journal* will be released on 5 March 2007. It can be viewed by members and subscribers, or purchased by non-members, at [www.farminstitute.org.au/publications/journal2](http://www.farminstitute.org.au/publications/journal2) 

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Australian Farm Sector Demography: *Analysis of current trends and future farm policy implications*

Australia's Farm-Dependent Economy: *Analysis of the role of agriculture in the Australian economy*



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# Corporate Membership

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The Australian Farm Institute has established three corporate membership categories with differing access to Institute information and differing levels of recognition including: Platinum (annual contribution > \$25,000) Gold (annual contribution > \$10,000) and Silver (annual contribution > \$2,000). If you are interested in Corporate Membership of the Institute, please contact the Executive Director, Mick Keogh on 61 2 9690 1388 or email [keoghm@farminstitute.org.au](mailto:keoghm@farminstitute.org.au)

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