
CUTTING RED TAPE IN AGRICULTURE

Submission in response to the draft report of the Productivity Commission inquiry into Regulation in Agriculture



18 August 2016

Mr Paul Lindwall
Presiding Commissioner
Regulation of Agriculture
Productivity Commission
Locked Bag 2, Collins Street East
Melbourne VIC 8003

Dear Mr Lindwall

RE: Draft report of Productivity Commission inquiry into regulation of Australian agriculture

On behalf of Grain Growers Limited (GrainGrowers), I am pleased to provide this submission to you in response to the draft report of the Productivity Commission (PC) inquiry into regulation of Australian agriculture, released on 21 July 2016.

GrainGrowers is a national grain grower representative organisation with 17,500 members across all of the major production zones in Australia. Our aim is to build a more efficient, sustainable and profitable grain production sector that benefits all Australia grain growers and the wider grains industry. The Australian grains sector is one of the most important agricultural contributors to the Australian economy.

This submission has been developed in consultation with the GrainGrowers National Policy Group (NPG). Our NPG consists of up to fifteen elected grower members from across Australia and provides a grassroots basis for GrainGrowers policy priorities and direction setting. GrainGrowers has also provided input to the National Farmers' Federation (NFF) and supports their submission to this process.

Overall, GrainGrowers is pleased with the draft report, noting the PC made numerous references to the content of our initial submission. In particular, we applaud the PC's draft recommendation for state governments to remove all moratoria on the production of genetically modified crops. We are also very supportive of the draft recommendation for an independent review of the National Heavy Vehicle Regulator and, more broadly, the current situation of road and transport regulations in Australia.

The attached table details GrainGrowers' specific responses to relevant recommendations and findings of the PC's draft report.

I note that there are a number of red tape issues that were raised in our initial submission, which have not been addressed by the PC. Rather than reiterate these points, I recommend the PC revisit our initial submission with particular regard to the sections on information requests (p. 6-11), biotechnology (p.14-18), taxation (p. 19-20), foreign investment (p. 20-21), and labor (p. 21-22).

Regulations around agriculture need to align with the long term objectives of the industry. To remain competitive, Australian agriculture needs to do more with less – we need to produce more and produce smarter. Any regulatory reform that assists in sensibly reducing the costs of production and getting grain to market more efficiently will therefore greatly benefit the sector. GrainGrowers welcomes this inquiry as a positive step towards creating a better regulatory framework for growers.

I look forward to discussing our position further at the upcoming public hearing in Canberra.

Yours faithfully

David McKeon
General Manager
Grain Growers Limited

Relevant PC recommendations and findings	GrainGrowers response
Land use regulation	
<p>Finding 2.1 Pastoral leases offer less security of tenure than freehold land, creating uncertainty for leaseholders and investors. In general, converting pastoral leases to freehold facilitates efficient land use.</p>	<p>GrainGrowers supports this finding in-principle. There is no one-size-fits-all solution once administrative processes are taken into account. However, in general, the certainty that is provided to landholders by Freehold title is conducive to allowing farming businesses to make long-term investments in their businesses to improve profitability and sustainability.</p>
<p>Recommendation 2.1 Land management objectives should be implemented directly through land use regulation, rather than through pastoral lease conditions. State and territory governments should pursue reforms that enable the removal of restrictions on land use from pastoral leases.</p>	<p>GrainGrowers supports this recommendation. Along with NFF, we also support continued state based reform to the regulatory framework for pastoral leases where sought by farmers. The Commonwealth can also play a role by providing incentives to jurisdictions to accelerate reforms that will:</p> <ul style="list-style-type: none"> • reduce the barriers to freehold conversion – including reform of the process and lower costs (which are unnecessarily high and prohibitive in many cases) • streamline processes to change lease conditions of use.
<p>Recommendation 2.2 State and territory governments should:</p> <ul style="list-style-type: none"> • ensure that, where reforms to Crown lands confer additional property rights on a landholder, the landholder pays for the higher value of the land and any costs associated with the change (including administrative costs and loss of value to other parties) • set rent payments for existing agricultural leases to reflect the market value of those leases, with appropriate transitional arrangements. 	<p>GrainGrowers supports this recommendation in principle. However, as per the position of the NFF, we note that any changes to the valuation framework for land tenure should acknowledge that:</p> <ul style="list-style-type: none"> • states generally hold limited residual value in lease tenure • lessees have been responsible for creating the real value of these leases • lessees have been scientifically proven to be good land managers. <p>It is important that governments set rents for crown lands and pastoral leases transparently, using consistent pricing principles that recognise the unique social, economic and environmental contributions made by lessees.</p>
<p>Finding 2.2 Regulation and policies aimed at preserving agricultural land per se can prevent land from being put to its highest value use. A right of veto by agricultural landholders over resource development would arbitrarily transfer property rights from the community as a whole</p>	<p>GrainGrowers notes this finding. As per the position of NFF, we argue that there can be a discrepancy between the highest immediate value use of land and the highest long term value. Permanent change of land use (e.g. from agriculture to urban) for short term gain could have negative impacts in a longer-term strategic framework. Governments should utilise strategic land use planning over project-by-project assessments. Currently, there is</p>

to individual landholders.

concern in the agricultural community that governments are not adequately assessing the risks of a project, and the cumulative risks of multiple projects on the land and water resources on which agriculture relies. GrainGrowers fully supports the NFF view that there is an opportunity for the Commission to be more strident in its views about the importance of fair, balanced and science-based regulation to inform resources sector developments. GrainGrowers encourages the Commission to make recommendations that support greater balance and the protection of farmers' property rights in relation to land access.

Environmental regulations

Recommendation 3.1

The Australian, state and territory governments, in consultation with natural resource management organisations, should ensure that native vegetation and biodiversity conservation regulations:

- are risk based (so that landholders' obligations are proportionate to the impacts of their proposed actions)
- rely on assessments at the landscape scale, not just at the individual property scale
- consistently consider and balance economic, social and environmental factors.

GrainGrowers supports the PC's recommendations in regard to environmental regulations.

However, in addition to the draft recommendations made by the PC, GrainGrowers urges the PC to support the following more specific recommendation made by both GrainGrowers and the NFF in earlier submissions:

- Streamline the implementation of Commonwealth and State environmental legislation by ensuring that "one-stop-shops" for environmental approvals encompass those activities relevant to the agriculture sector.
- Continued harmonisation of the list of protected matters to reduce confusion over state/territory and Federal Government legislation and overcome the confusion around geographic coverage, scientific definitions and thresholds for significant impact.
- Develop a quick, low cost method to appraise proposals to indicate whether a proposed activity is likely to require referral to support regulatory compliance and reduce costs for applicants and government.
- Ensure that environmental regulations (including lists of significant matters) are subject to periodic comprehensive review to ensure that the list reflects contemporary scientific understanding and information and that new listings are subject to appropriate analysis of regulatory impact.

Recommendation 3.2

The Australian, state and territory governments should continue to develop market-based approaches to native vegetation and biodiversity conservation. Where the community is seeking particular environmental outcomes, governments could achieve them by buying environmental services (such as native vegetation retention and management) from existing landholders.

Recommendation 3.3

The Australian, state and territory governments should review the way they engage with landholders about environmental regulations, and make necessary changes so that landholders are supported to understand the environmental regulations that affect them, and the

<p>actions required under those regulations. This would be facilitated by:</p> <ul style="list-style-type: none"> • recognising and recruiting the efforts and expertise of landholders and community-based natural resource management organisations • building the capability of, and landholders’ trust in, environmental regulators. 	<ul style="list-style-type: none"> • Re-establish the position of Environment Liaison Officer within the NFF. <p>As with NFF, we encourage the PC to go further in its recommendations to acknowledge that streamlining beyond the current model is required.</p> <p>We note that in buying environmental services as per Recommendation 3.2, there must be recognition of the wider implications/spillovers of actions in both their assessment of value considerations, and their approach to management into the future.</p>
<p>On-farm regulation of water</p>	
<p>Finding 4.1</p> <p>Complexity and ongoing changes in water regulation contribute to the cumulative burden of regulation on farm businesses. However, the diversity of Australia’s river catchments makes streamlining and harmonising regulation difficult. More flexible governance arrangements may be needed to develop locally appropriate regulatory settings for accessing water.</p>	<p>GrainGrowers supports this finding in principle.</p>
<p>Recommendation 4.1</p> <p>The Australian Government should implement the findings of the Interagency Working Group on Commonwealth Water Information Provision to reduce duplicative and unnecessary water management information requirements imposed on farm businesses.</p>	<p>As per the NFF, GrainGrowers supports this recommendation. Water provision regulations impose significant costs, which are passed on to farm businesses through water charges.</p> <p>We agree with the NFF that reduction and consolidation of data reporting requirements for irrigation companies would create cost savings, which would flow on to farmers.</p> <p>Governments should undertake periodic reviews of all agricultural information requirements to ensure collected information remains useful and relevant. The National Agricultural Statistics Review was a positive step, but outcomes have been limited.</p>
<p>Access to technologies and agricultural and veterinary chemicals</p>	
<p>Finding 6.1</p> <p>There is no economic or health and safety justification for banning the cultivation of genetically modified (GM) organisms.</p>	<p>GrainGrowers fully supports the PC’s findings and recommendation in regard to regulation of genetically modified crops, noting that they closely align with the content of our earlier submission.</p>

- The Office of the Gene Technology Regulator (OGTR) and Food Standards Australia New Zealand (FSANZ) assess GM organisms and foods for their effect on health, safety and the environment. Scientific evidence indicates that GM organisms and foods approved by the OGTR and FSANZ are no less safe than their non-GM counterparts.
- The successful coexistence of GM and non-GM crops is possible and has been demonstrated both in Australia and overseas. This means that if there are any market access or trade benefits (including price premiums for non-GM products), they would be achieved regardless of whether GM crops are in the market

Recommendation 6.1

The New South Wales, South Australian, Western Australian, Tasmanian and Australian Capital Territory governments should remove their moratoria (prohibitions) on genetically modified crops. All state and territory governments should also repeal the legislation that imposes or gives them powers to impose moratoria on the cultivation of genetically modified organisms by 2018.

The removal of the moratoria and repeal of the relevant legislation should be accompanied by the provision of accurate information about the risks and benefits to the Australian community from genetic modification technologies. State and territory governments, the Office of the Gene Technology Regulator and Food Standards Australia New Zealand should actively coordinate the provision of this information.

We do, however, ask the PC to revisit the biotechnology section of our [earlier submission](#) and address the other issues we raised on the topic of biotechnology, including opportunities for states to cooperate on biotechnology regulation through CoAG, classification and regulation of next generation technologies, and organic standards.

GrainGrowers recommends:

- GM regulation should be considered by CoAG as an area for cross-governmental collaboration with the view to establishing a nationally consistent, scientifically grounded regulatory framework.
- The Australian Government must ensure that new technologies are not unduly classified under the same regulatory restraints as traditional GM technologies.
- The Australian Government Department of Agriculture (which serves as a contact point for issues concerning domestic organic policy matters) should work with the organic industry to revise the National Standard. The National Standard should be scientifically grounded and should, therefore, not exclude GM products from being eligible for organic status.
- The National Standards should be revised to replace zero tolerance with a more workable and scientifically grounded low level presence threshold.

GrainGrowers also supports the following recommendations made by CropLife:

- that the PC consider Recommendation 15 made by the House of Representatives Standing Committee on Agriculture and Industry in its report *Smart Farming: Inquiry into Agricultural Innovation* that “the Department of Agriculture and Water Resources, in cooperation with Standards Australia, update the National Standard for Organic and Bio-Dynamic Produce to introduce a threshold for approved genetically-modified material consistent with comparable international standards.”

	<ul style="list-style-type: none"> • That a PC recommendation calling for removal of APVMA regulatory responsibility for pesticides expressed <i>in planta</i> would be an effective move for address regulatory duplication.
<p>Recommendation 6.2</p> <p>The Australian Pesticides and Veterinary Medicines Authority should make greater use of international evidence in its assessments of agricultural and veterinary chemicals (including by placing greater reliance on assessments made by trusted comparable international regulators). Reforms currently underway in this area should be expedited.</p>	<p>Australia is a small market for agricultural chemicals and has to compete on a highly competitive international market. GrainGrowers supports the PC’s recommendations in regard to agricultural chemical regulation.</p> <p>Agvet chemical regulation remains inhibited by duplication, inconsistencies and inefficiencies, despite numerous reviews in recent years. Any regulatory reform must also be accompanied by ongoing incentives to address market failure (such as the current “Access to Industry Priority Uses of AgVet Chemicals Programme”).</p>
<p>Recommendation 6.3</p> <p>The Australian, state and territory governments should expedite the implementation of a national control-of-use regime for agricultural and veterinary chemicals (which includes increased harmonisation of off-label use provisions), with the aim of having the regime in place in all states and territories by the end of 2018.</p>	<p>To improve access to products in the limited Australian market, international data use is critical and must be expedited.</p> <p>Streamlining of the control-of-use regime would be beneficial. However, must be weighed against any potential loss of access to critical products.</p>
<p>Information request 6.1</p> <p>How well does the regulatory framework for technologies and agvet chemicals perform? Are the institutional arrangements and regulatory objectives underpinning the OGTR and APVMA appropriate and up to date? What improvements could be made?</p>	<p>There are significant issues with the current regulatory framework for technologies and agvet chemicals. For example, Safe Work Australia’s <i>Model WHS Regulations 2011</i>, is set to require labelling in accordance with the Globally Harmonized System of Classification and Labelling (GHS) from 1 January 2017 for agvet chemicals already regulated under the <i>Agricultural and Veterinary Chemicals Code Act 1994</i>. In practice, this will impose new hazard labelling obligations on agricultural chemicals that already comply with comprehensive labelling requirements that reflect rigorous risk assessments, which are undertaken by the APVMA as part of the existing regulatory process for agvet chemical approval in Australia. This new labelling requirement is an unnecessary and duplicative regulatory burden. We refer the PC to GrainGrowers submission on this issue.</p>
<p>Biosecurity</p>	
<p>Information request 7.1</p>	<p>On-farm biosecurity is critical to the success of grain farming businesses in</p>

<p>Participants raised concerns about farm trespass, particularly as trespass can increase biosecurity risks. What strategies could be used to discourage farm trespass? Are existing laws for trespass sufficiently enforced in relation to farm trespass?</p>	<p>Australia. Legal consequences for farm trespass should be proportional to the potential damage caused.</p>
<p>Transport</p>	
<p>Finding 8.1 Despite the commencement of the Heavy Vehicle National Law and the establishment of the National Heavy Vehicle Regulator, there remain significant variations and inefficiencies in heavy vehicle regulation, including delays in processing road access permits.</p>	<p>GrainGrowers supports the PCs findings and recommendations in regard to heavy vehicle transport of agricultural goods.</p> <p>There is scope to improve regulations around oversize machinery and transport of grains, especially over state boundaries. Grain farmers are looking for flexible, sensible approaches to farm machinery regulations that do not unduly hinder efficient farming operations. In particular, regulations on oversize equipment, secure loads, access and registration need to be harmonized across the states to allow grain farmers to transport grain and move equipment across state borders with ease. Such harmonization fits well within COAG’s agenda to cooperatively reduce regulatory burden through streamlining regulatory requirements across different governments.</p>
<p>Recommendation 8.1 States and territories that are participating in the Heavy Vehicle National Law should increase the number of routes that are gazetted for heavy vehicle access. Permits should only be required in locations where there are significant risks to public safety or infrastructure that must be managed on a case-by-case basis. There are arrangements in South Australia to allow road users to propose and undertake road route assessments for gazettal, and in Queensland to fund road assessments and gazettals on both state and local roads. These arrangements should be considered for adoption in other jurisdictions or expansion in respective states.</p>	<p>The establishment of the National Heavy Vehicle Regulator has been troublesome, particularly regarding different approaches by various compliance and enforcement bodies. GrainGrowers supports the recommendation for an independent review of the National Heavy Vehicle Regulator and more broadly the current situation of road and transport regulations in Australia, with the view to streamlining (reducing) regulatory requirements and improving the ease of compliance.</p>
<p>Recommendation 8.2 The Australian, state and territory governments should pursue road reforms to improve the efficiency of road infrastructure investment and use, particularly through the introduction of road-user charging for selected roads, the creation of Road Funds, and the hypothecation of revenues in a way that incentivises the efficient supply of roads.</p>	
<p>Recommendation 8.3 The National Heavy Vehicle Regulator, road managers, and relevant third parties (such as utilities and railway companies) should ensure that requirements for moving oversized agricultural machinery are</p>	

proportionate to the risks involved. To achieve this they should, wherever possible, make greater use of gazettal notices or other exemptions for oversized agricultural machinery, and issue permits for oversized agricultural machinery that are valid for longer periods and/or for multiple journeys.

Finding 8.2

The road safety remuneration system (including the Road Safety Remuneration Tribunal) imposed costs on businesses, including farm businesses, without commensurate safety benefits and its abolition will reduce this burden.

Recommendation 8.4

The Australian, state and territory governments should review the National Heavy Vehicle Regulator (NHVR) as part of the planned review of the national transport regulation reforms. The review should fully assess concerns over inefficiencies in heavy vehicle regulations, and identify ways in which new funds allocated following the abolition of the Road Safety Remuneration Tribunal could best be used by the NHVR to improve road safety in all states and territories.

Finding 8.3

Privatisation of major ports has the potential to increase economic efficiency, provided appropriate processes are followed to ensure that the public interest is protected through structural separation, regulation or sale conditions. Increasing the sale price of ports by conferring monopoly rights on buyers is not in the public interest.

GrainGrowers supports this finding. Introduction of the *Port Terminal Access (Bulk Wheat) Code of Conduct* in 2014 was a significant milestone in the deregulation of the Australian wheat export industry. Under the code, port terminal service providers are able to formally apply to the ACCC for certain exemptions for specified port terminal facilities. The ACCC has provided a number of these exemptions where it has determined there to be satisfactory competitive restraint.

GrainGrowers understands that where large, vertically integrated service providers exist with regional monopolies, effective safeguards are needed to prevent potential abuses of market power to the detriment of growers.

Recommendation 8.5

The Australian Government should amend coastal shipping laws by 2018 to substantially reduce barriers to entry for foreign vessels, in order to

GrainGrowers supports NFF's view on this recommendation. With reduced barriers to foreign vessels, there will be increased competition that will lead to more competitive shipping costs. The consequent savings could flow on

improve competition in coastal shipping services.	to growers and improve their bottom line.
Food regulation	
<p>Recommendation 9.1</p> <p>Food Standards Australia New Zealand should remove the requirement in the Food Standards Code to label genetically modified foods.</p>	<p>GrainGrowers supports this recommendation in principle. For GM labelling to be mandated under FSANZ, there should be a scientific justification. As discussed in our earlier submission, literature reviews of long-term, multigenerational animal feeding trials and data collected from 1983 through to 2011 confirm that there is no significant difference in the safety or nutritional value of GM food or the animal products of livestock fed GM feedstuffs compared with non-GM equivalents.</p> <p>GrainGrowers supports the empowerment of consumers to select food according to personal preferences. However, we believe that the market will provide GM specific labeling for consumers, as it already does for many non-GM products, without the need for FSANZ to be involved.</p> <p>We also note that FSANZ cannot enact this recommendation independently because the relevant policy guidance and decision-making must occur at the ministerial level.</p>
<p>Recommendation 9.2</p> <p>Food Standards Australia New Zealand should review the standard for the level of gluten allowed in foods labelled as ‘gluten-free’, taking into account scientific evidence, international standards and risks to human health, and set a maximum allowable parts-per-million level for foods to be labelled ‘gluten-free’.</p>	<p>GrainGrowers supports this recommendation in principle. Standards and tolerance levels should always be scientifically based and not impose an unnecessarily onerous compliance burden. We understand that there is currently limited scientific evidence available to determine a safe minimum threshold for people with coeliac disease.¹ We therefore encourage further research in this area and recommend that FSANZ review the standard as scientific evidence becomes available.</p>
Foreign investment in agriculture	
<p>Recommendation 12.1</p> <p>The Australian Government should increase the screening thresholds for examination of foreign investments in agricultural land and agribusinesses by the Foreign Investment Review Board to \$252 million (indexed annually and not cumulative).</p>	<p>GrainGrowers supports foreign investment in Australian agriculture and recognises the important role it has played and will continue to play in a vibrant agricultural supply chain. GrainGrowers recognises a balance must be struck between ensuing incoming investment is thoroughly screened to determine whether it is in the national interest, and too much regulation on</p>

¹ Reference: Reid J, Allen K, McDonald S, Hill M, Brennan S, Tye-Din JA. Systematic Review of Safe Level of Gluten for People with Coeliac Disease. Cochrane Australia 2016.

Recommendation 12.2

The Australian Government should set application fees for foreign investment proposals at the level that recovers the costs incurred by the Foreign Investment Review Board in reviewing proposals, and should closely monitor the fees to ensure no over- or under-recovery of costs.

such investment acting as a deterrent.

We do not support increasing the screening threshold as per draft recommendation 12.1. It would not be appropriate to do this when there is still a significant issue with transparency in the way decisions are made following the FIRB review process.

In our earlier submission, we identified an opportunity to improve transparency in the foreign investment space, recommending:

- The sections on agriculture in FIRB's annual reports should be expanded to include by-state data on agricultural investment. Further aggregated details on the types of agriculture that are being bought into should also be included.

Understandably, the costs for foreign applications will be higher than those incurred by domestic companies due to the increased complexity of foreign assessments.

We also note that, where possible, FIRB reviews should be mindful and not discriminatory to local buyers who may need to undergo an ACCC review.

We encourage the PC to read a relevant submission GrainGrowers made in March 2015 following the Australian Government's options paper, *Strengthening Australia's Foreign Investment Framework*.