

AUSTRALIAN PORK LIMITED

Submission to the Productivity Commission

Draft Report on the Regulation of Australian Agriculture

August 2016



Table of Contents

Introduction	1
Land use regulation	1
Environmental regulations	2
Regulation of farm animal welfare	3
Regulation of technologies and agricultural and veterinary chemical	7
Biosecurity	8
Biofuels	9
Food regulation	9
Labour regulation	10
Competition regulation	11
Foreign investment in agriculture	11
Export regulation	12
The way forward	13

Introduction

Australian Pork Limited (APL) welcomes the opportunity to provide a submission to the Productivity Commission's draft report on the Regulation of Australian Agriculture.

APL is the national representative body for Australian pig producers. It is a producer-owned, not-for-profit company combining marketing, export development, research and innovation, and policy development to assist in securing a profitable and sustainable future for the Australian pork industry.

The Australian pork industry employs more than 20,000 people in Australia and contributes approximately \$2.8 billion in gross domestic product to the Australian economy. The pork industry contributes approximately 2.13 per cent of total Australian farm production with roughly 1500 pig producers producing around 5 million pigs annually.

As a member of the National Farmers' Federation (NFF), APL has provided input into, and supports, the NFF submission to the draft report, particularly as this relates to areas of regulation that affect all forms of agriculture across Australia.

Land use regulation

Information request 2.1

Land use conflicts are an increasing concern in peri-urban regions where urban expansion encroaches on productive farming land. New peri-urban residents often lack an understanding of farming practices, particularly of intensive animal industries. Consequently, intensive farms like pig farms, that have existed without objection for many years and decades, can find themselves attracting new or renewed (and at times unwarranted) attention. In particular, developments requiring local council permits may become a focus for community concerns unrelated to the development, for example animal rights.

Disputes of this nature brought before local councils can often be drawn out and costly due to loss of human capital and experience in councils (staff and councillors) and pressure from council residents and those living outside the council area. 'Right to farm' legislation is advantageous in these circumstances as will provide protection for established farms, operating lawfully and with good agricultural practices, from complaints against those normal practices.

Tasmania has recently reviewed its unique *Primary Industry Activities Protection Act*, which aims to provide a right for existing agriculture endeavours. Suggestions of a "buyer beware" approach for future lands sales near farmland have some merit to protect farmers operating according to normal farming business practices.

APL supports the notion that producers also have an obligation to farm right, meaning they must comply with contemporary laws (i.e. the 'right to farm right'). Transparency in 'right to farm' legislation will be critical in avoiding the appearance it could be used to protect those who do not uphold industry best practice and the law.

Environmental regulations

Draft recommendation 3.3

Producers are facing issues in nearly all states in relation to permits to operate.

- In some cases, local councils incorrectly advise producers they do not require a permit.
- Some producers assume because their pig production is outdoors, it is extensive only to find out that all pig production is intensive - this relates to confusion as intensive is defined by the food sources not whether production is indoors or outdoors.
- Some producers have expanded but failed to obtain the relevant permits.
- In at least one case, a local council changed their planning zones many years ago without informing the producer.

Consequently, producers are applying for retrospective permits or apply for new developments and face significant, expensive and protracted council decisions, many of which end up in planning courts.

Local councils are often ill-equipped to deal with land planning applications. A lack of understanding of intensive land use such as piggeries exacerbates this situation. Many local councils have lost corporate knowledge and lack sufficient training and staff resourcing. For state governments, setting of environmental policy also suffers from a loss of corporate knowledge and a lack of understanding of how policy for one outcome (e.g. wastewater) may affect, or be affected by, other environmental outcomes, leading to perverse environmental and subsequently planning policies.

Community pressure on council staff and councillors is also resulting in local councils becoming overly conservative, avoiding taking an informed position as this leads to community repercussions. Additionally, councils may refuse permits or place onerous or irrelevant conditions on the development. The producer will then appeal to the environment and planning court for a ruling that is unbiased and not emotive.

Poor application of environmental regulation is resulting in significant industry costs, delays to projects and unmerited planning conditions. Retrospective applications are quickly becoming an area of conflict where none previously existed; that is the pig farm may have attracted no previous complaints. It is increasingly clear that animal rights groups are targeting piggery developments using animal rights as the basis. This activism goes so far as to result in the proponent, and APL (as well as individual staff) being attacked on social media.

Often these farms have been long established operations, yet the landscape surrounding them has changed due to urban encroachment and despite the retrospective nature of the application, permits are sometimes refused based on objections to the application. Councils appear to shy away from rejecting objections that do not relate to the grounds on which their decisions are to be founded. Alternatively, councils seek to impose unrelated, onerous or impractical conditions in an attempt to appease these objections.

To resolve this situation, APL proposes a moratorium for retrospective permit/development applications for piggery operations to deal with permits that were not obtained, particularly due to incorrect council advice, and where the producer can show they have been existing in the community without issue or complaint. This initiative is critical to the preservation of existing pig farms, but would not be available to producers seeking to establish new piggeries or expand existing developments. The latter groups would need to undergo the normal assessment process by council.

Environmental regulation is inconsistent across the levels of government and sometimes within the same government department, resulting in incorrect information given to pork producers on permit requirements or conflicting and perverse regulation. In addition to reviewing how they engage with landholders, all levels of government must also ensure they are engaging and collaborating with each other, so environmental regulation delivers outcomes to manage the identified risks.

Given the above issues, APL is seeking to fill this gap through additional resources to educate councils and in an attempt to mitigate inconsistent environmental regulation. This is in addition to APL's investments to develop pork industry guidelines including the National Environmental Guidelines for Piggeries (NEGP 2010), the National Environmental Guidelines for Outdoor Production (NEGROP 2013) and the Piggery Manure and Effluent Management and Reuse Guidelines (2015).

APL invests in ongoing, robust and proactive research, development and extension programs that review and update these industry guidelines based on the latest science and technologies. Despite this, governments and councils do not support the use of these guidelines as they are seen as industry developed and therefore assumed as biased in some way.

APL suggests the Commission recommend all jurisdictions revise their legislative arrangements to have an overarching outcomes based framework and to incorporate national industry guidelines, such as those mentioned above, and to recognise industry participation in industry assurance programs such as the Australian Pork Industry Quality Assurance Program (APIQ[®]).

Local councils and environmental agencies should use these guidelines when assessing piggery applications yet, as aforementioned, incidents have occurred where local councils have made decisions on planning applications against the advice provided. APL has previously submitted that a specialist Intensive Animal Industries Officer be appointed to a range of regulatory authorities to overcome these issues.

Regulation of farm animal welfare

Draft recommendation 5.1

With the Federal Government withdrawing its national leadership position on animal welfare standards and guidelines following the 2013 Federal Election, there is significant mistrust and dissatisfaction with the current process. Although national leadership still occurs through:

- Agriculture Minister's endorsement of standards and guidelines;
- Agriculture Senior Officials endorsement of standards and guidelines;
- At the direction of Senior Officials, high level state and federal government oversight of the process through the Animal Welfare Task Group (AWTG); and
- Animal Health Australia as the independent project manager.

While this process mimics the prior process, it is apparent there is significantly less transparency about the process including who is involved and how work programs are determined and directed.

Adding to this, it appears there is:

- Not new but ongoing mistrust of minimum standards and guidelines for animal welfare, particularly with industry involved and partly funding the process;
- Increasing activism around animal rights purporting to represent the broader community and consumer views on animal welfare, yet animal rights groups are a significant minority; and
- More importantly, biased selection of the science around animal welfare.

Perhaps these issues and concerns are symptomatic of a lack of confidence in the regulatory system in terms of monitoring and compliance, which is an area increasingly under pressure for resourcing. In that respect, APL concurs with the Commission that state governments need to improve community confidence through their monitoring and enforcement activities.

It is also important to separate the views of the community from consumers. APL's research supports the Commission's observations in that community views do not translate to purchase decisions. APL's research shows that cost, taste, health and texture are bigger drivers for purchase decisions than environment and animal welfare. By contrast, the community do not wish to know the detail of animal production but do want to be reassured the animals are treated well.

Biased selection of animal welfare science is significant. As an industry funded Research and Development Corporation (RDC), APL strongly supports that science will tell us what is right in terms of animal welfare for pigs – this is quite different to anthropological emotions about what is perceived as right. Importantly, any interest group with resources can commission “science” to deliver the outcome they seek, but much depends on the question posed that the “science” asked. Importantly, independence in reviewing the science presented and determining what science is relevant to a standards and guidelines process appears missing in the current process.

While the Commission has discussed a number of options, one that was not canvassed is an existing Federal Government solution to water science. The Independent Export Scientific Committee (IESC) was established as a statutory committee in 2012 under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth), in response to community concerns about coal seam gas and coal mining. The IESC provides¹:

- Independent, expert scientific advice on coal seam gas and large coal mining proposals as requested by the Australian Government and state government regulators.

This advice is provided to enable the regulator's decisions about coal seam gas and large coal mining developments to be informed by the best available science about the potential water related impacts associated with those developments.

Queensland, New South Wales, South Australian and Victorian government regulators can seek the IESC's advice in accordance with the terms of the National Partnership Agreement on Coal Seam Gas and large Coal Mining Development (link is external).

- Advice to the Australian Government on bioregional assessments and research priorities and projects.

Bioregional assessments and other research will improve our knowledge base regarding the potential water related impacts of coal seam gas and large coal mining.

¹ <http://www.iesc.environment.gov.au/>

This model could apply to animal welfare. Likewise, other models may be acceptable such as Standards Australia.

The Commission sought advice on New Zealand's National Animal Welfare Advisory Committee (NAWAC), which provides advice to the NZ Primary Industries Minister on:

- the welfare of animals in NZ;
- animal welfare research needs;
- legislative proposals;
- codes of welfare;
- regulations;
- traps and devices; and
- hunting and killing animals in a wild state.

If the NAWAC model were to be established in Australia, it would appear to duplicate a number of functions and/or different organisations and governments, including RSPCA, the Animal Welfare Taskforce Group, state regulatory processes, the various industry associations, livestock RDCs and the Animal Welfare RD&E strategy. The website also notes that NAWAC has limited resources.

Importantly, the NAWAC guideline on the role of science for setting animal welfare standards is encouraging in that NAWAC considers the known and unknown, theoretical and practical, workable and unworkable facets of a problem to be evaluated to provide the basis for decision-making. NAWAC notes that ultimately the science is a matter of judgement through the expertise of its membership, which appears to be consistent with the existing Standards and Guidelines Stakeholder Advisory Group.

What is required is:

- A more transparent process for the development of national standards and guidelines for animal welfare;
- An education program that ensures a greater understanding of the broader community of animal welfare outcomes on which standards and guidelines are based, and that this is not the same as animal rights; and
- An independent process for peer reviewing the science presented to inform standards and guidelines.

Information request 5.1

APL does not support the Commission's view that the slow progress on standards and guidelines has been about preserving the status quo. The key issue has been resourcing the process for both governments and industry. Importantly, APL understands that one of the reasons for delays has been that non-funding parties are using the standards and guidelines process to further irrelevant discussions.

It is important to note that while the Australian Government no longer funds standards and guidelines (beyond the 2013 commitments) and has disbanded the Australian Animal Welfare Strategy, there is continued consultative processes and funding through industry and state governments. Representations stating this does not occur are likely to be from groups who are not part of the process, which involves the major stakeholders for each standards and guidelines process.

APL strongly supports a national harmonised implementation of standards and guidelines in each jurisdiction to ensure consistency of legislation passed in states. An approach whereby individual jurisdictions apply their own or higher standards when regulating standards and guidelines creates potential for market distortion. Some states did not regulate standards and guidelines, but made their own regulations. Moreover, it can create highly questionable costs on industry beyond what was anticipated in the regulatory impact statement (RIS). The pork industry incurred this in 2008 when Tasmania chose to ban the use of gestation stalls despite the then model code agreeing to gestation stall use of six weeks with a ten year phase-in period, with most states requiring mandatory compliance from 20 April 2017.

The process must engage the correct expertise and ensure that while taking into consideration the concerns of the public it is implementing scientifically founded evidence-based policy. Hence, the process should engage experts, such as producers, animal welfare scientists, animal production scientists and representative bodies, including the RSPCA and the Australian Veterinary Association.

The process should not engage animal rights or activists groups as, while they portray the message of wanting good animal welfare practices, they often lack the expertise to support their arguments with good science and their bias would influence the development of sound public policy. Moreover, some have resources but fail to apply this for animal welfare outcomes – focussing instead on activism to address their concerns.

In terms of governance structures, APL is not wedded to any one concept. A number of options are feasible and need to be carefully weighed. The model must deliver a robust, science-based standards and guidelines outcome that excludes emotive views of what one individual or organisation perceives is right.

Industry representation in the process would ensure any outcomes are conveyed to, and supported by, the industry. Additionally, the process must ensure that any decisions made are justifiable and supported by the evidence to demonstrate to the public why a decision has been made.

Currently, the outcomes of the standards and guidelines process is presented to state ministers through the AWTG to the Agriculture Senior Officials and Agriculture Ministers. Given that state governments regulate animal welfare, any revised structure or process would make recommendations to state ministers of agriculture or primary industry.

An additional issue raised by industry stakeholders in current standards and guidelines processes is the tendency of animal rights groups to use the process to raise concerns about animal welfare generally. This significantly increases both the time and cost to develop and/or revise standards and guidelines. APL suggests the AWTG be requested to develop a sound policy for dealing with unrelated animal rights issues.

On the matter of the consideration of community expectations, whilst important to consider contemporary expectations, APL would question whether this should be the determinant of good animal welfare outcomes. As an example, some of the community considers that free-range production is humane and animal welfare friendly. However, outdoor pigs face significant welfare challenges, such as the weather, skin cancers, predation, pests and so on. Community expectations may not align with what is best for the pigs.

Draft recommendation 5.2

APL agrees state and territory governments should review their monitoring and enforcement functions. When animal welfare issues arise, states must ensure there is adequate resourcing of the jurisdictional and enforcement bodies they employ to enforce animal welfare activities.

States must ensure that enforcement bodies (in many states this is RSPCA) are trained appropriately in the contemporary management of livestock, specifically intensive animal industries given the common misconceptions of best practice. In South Australia, PorkSA has worked with RSPCA SA to ensure RSPCA inspectors are appropriately trained to assess pig farms against the model code.

APL recommends that jurisdictions provide sufficient resources to undertake compliance functions. For example, a review of saleyards shows that compliance can be poor. While incidents may be reported to the compliance regulator and vendors billed when stock are euthanised, a more powerful outcome occurs when feedback is provided on the spot to individuals mishandling stock, or the vendors who present animals unfit to load.

Regulation of technologies and agricultural and veterinary chemicals*Draft recommendation 6.2*

Australian pork producers should have access to veterinary products available to their competitors and that reduce the costs of production. However, in so doing it is imperative the Australian pork industry's reputation for safe, clean food is not jeopardised when progressing registration of these agricultural and veterinary chemicals.

APL suggests that while the Australian Pesticides and Veterinary Medicines Authority (APVMA) should take into consideration international evidence when assessing agricultural and veterinary chemicals, this should not be done as a substitute to conducting studies within Australia, where warranted and appropriate.

The necessary technical analysis of chemicals submitted for registration and appropriate roles for regulators are well defined and in place to ensure the proper assessment of trade risk and efficacy. Australia has significant climatic differences from international regulators that would be considered comparable, such as Europe or USA, and a different risk appetite when registering products.

Draft recommendation 6.3

APL supports the recommendation that Australian, state and territory governments should expedite implementation of a national control-of-use regime for agricultural and veterinary chemicals. Off-label use is inconsistent between different jurisdictions and this competitively disadvantages farmers who operate in states or territories with stricter requirements.

Additionally, APL supports the NFF recommendation for the establishment of a minor use regulatory guidelines and prioritisation framework to help agricultural industries respond to new pest and disease incursions in a more timely and efficient manner.

Biosecurity

Australia's favourable biosecurity status enables it to produce premium agricultural goods competitively, efficiently and sustainably. Current biosecurity protocols make Australia one of only a few countries that maintain a high disease-free status for pig herds. Protecting this disease free status requires that science-based biosecurity protocols be preserved to manage disease threats, including, but not limited to, foot and mouth disease, porcine epidemic diarrhoea virus and porcine reproductive and respiratory syndrome.

An exotic disease outbreak in Australia will have devastating effects on animal welfare, human wellbeing, and farmer livelihoods. It will also jeopardise the premium market positioning of Australian pork in the international marketplace and undermine consumer confidence of pork in the domestic market. APL strongly supports the robust scientific assessment and maintenance of the current biosecurity protocols through the Pork Import Biosecurity Risk Assessment (Pork BIRA).

Biosecurity is critical to the pork industry remaining cost competitive. Australia enjoys excellent pig herd health, which underpins productivity, profitability, animal welfare and ongoing management costs. If the current biosecurity protocols were compromised, the welfare of all Australia's pig herds and producers would be placed at significant risk, given the herd is closed and therefore naïve to many exotic diseases. Biosecurity is about keeping our pigs safe.

The draft report discusses biosecurity, however, it fails to acknowledge that biosecurity is a responsibility of all individuals who enter a farm property, including services provided through state-owned enterprises (such as water or electricity companies). Governments must ensure all staff entering pig farms are aware of their biosecurity obligations and not just enforcing their statutory right of entry.

Information request 7.1

Farm trespass is a significant biosecurity threat to the Australian pork industry. Pig farms operate individually and vary in their biosecurity statuses. Activists trespass on farms without proper biosecurity clearance, potentially moving diseases between facilities and creating adverse animal welfare outcomes. APL is aware of at least two instances where pigs on two separate farms that were raided by activists on subsequent nights, broke with the same endemic disease, and for which they had been free for several decades.

A disease incursion can result in many costs to animal health and welfare, and to the production system. For pigs, the only way to resolve some endemic diseases is to depopulate the piggery. For an average pig farm, this can result in costs upward of \$1 million.

Moreover, analysis of meta-data (which activists now remove from photos and videos uploaded to their websites), shows at least eleven occasions where biosecurity protocols have been contravened on pig farms. The responsibility for on-farm biosecurity is the farm owner/manager. This is not a decision for an activist seeking to trespass on a farm in the middle of the night. It is for this reason farms require all people entering, to report to the farm owner/manager so an informed decision can be made.

It is challenging to identify perpetrators who choose to hide their identity, let alone prosecute. While some state government laws for trespass and surveillance devices appear appropriate, without a means of identifying perpetrators, these laws are ineffective. More recently, some state

governments have introduced new legislation making biosecurity the responsibility of everyone – governments, producers and the broader community – and introducing significant penalties. However, whether these changes facilitate changed behaviours is yet to be tested.

APL is implementing initiatives in an effort to provide additional information and transparency to the broader community. That said it is doubtful that these endeavours will be sufficient to appease those who undertake farm invasions. This is because the underlying philosophy of these farm trespassers is vegan, and they believe that it is inappropriate for any animal to be used for its meat or other products (e.g. milk).

Biofuels

Draft recommendation 8.6

APL supports the need for Australia to reduce greenhouse gas emissions and reduction of emissions in the transport system is an essential part of this. APL supports the Commission's recommendation that biofuel mandates have minimal environmental benefits, introduce unnecessary costs to farmers and communities and should be removed.

The Australian pork industry is opposed to government mandates for the grain derived ethanol industry as it distorts grain markets by artificially inflating grain prices. Feed is the single most expensive input into pig production – comprising around 60 per cent of all costs, with feed grains a primary feed source. During dry periods, feed grains can represent up to 80 per cent of the cost of production.

Food regulation

Information request 9.1

Country of Origin Labelling (CoOL) is of utmost importance to the Australian pork industry given 45 per cent of all pork consumed in Australia is imported. As Australia's Pork BIRA requires all imported pork is processed, meaning that 75 per cent of all processed pork is imported.

Previous iterations of food labelling failed to deliver consumers a clear understanding of how and where their food is produced and processed, including ham and bacon, and reconstituted products such as fruit juice.

APL has strongly advocated for a strong regulatory environment for CoOL over a number of years. In the absence of such an approach, APL invested in the PorkMark logo to inform consumers which hams and bacons were Australian. The CoOL system introduced in 2016 appears to close some of the gaps in the previous regulatory system, including for delicatessen products.

Unfortunately, the new system fails to deliver on the gaps in the previous scheme for the use of small amounts of imported brine ingredients. The substantive product remains Australian for Australian produced ham and bacon, but processors will need to identify the small quantities of brine. APL supports a safe harbour for these minor products, as a consumer wants to know the origin of the pork product, not the brine.

APL has worked constructively with the Australian Government to ensure the CoOL system meets the expectations of consumers, pork producers, processors and all levels of government. APL is not convinced that a voluntary scheme would work but rather is likely to lead to increased consumer confusion, and costs to industries as they seek to educate the consumer about voluntary labelling systems.

APL believes a voluntary system would not provide an adequate solution, and does not provide consumers with confidence in the country that is the source of their pork.

Information request 9.3

The draft report identifies that any further reduction to the burden of regulatory audits may be limited by importing country requirements. APL agrees this avenue must be investigated to reduce the number of audits occurring in export establishments. As part of trade negotiations, the Australian Government should use its influence to encourage the use of third party auditors and to defend Australia's robust food safety systems at export plants.

Labour regulation

The Australian pork industry has had significant difficulties attracting and retaining skilled piggery workers. This is due to the perception of the pork industry being a relatively unattractive career choice, coupled with the diminishing labour supply in regional Australia. As a result, long-term critical shortages exist in recruiting and retaining skilled piggery stock persons, in addition to shortages in slaughtering, boning, slicing and butchery.

Current regulation of Australia's temporary work visa programs are impacting the ability of employers to source skilled migrants that the sector needs to improve productivity and meet the high animal welfare and food safety standards the Australian pork industry achieves.

To maintain this the pork industry requires streamlined, effective processes to enable efficient employment of staff from overseas such as through reforms to the 457 visa program, training and education for employees, and broadening the Skilled Occupations List to facilitate access to a wider skills base relevant to the pork and processing sectors. APL supports any initiatives that promote pathways to permanency for valued workers, their partners and immediate family, which provides an incentive for them to stay in the Australian pork industry.

Under current regulations, an employer is required to meet the training requirements for the Temporary Work (Skilled) visa programme (457 visa) by either:

- Paying the equivalent of at least two per cent of payroll expenditure to an industry training fund; or
- Paying the equivalent of at least one per cent of payroll expenditure on training Australian workers and permanent residents employed by the business.

These requirements were introduced through the *Independent review of the 457 programme* (the Azarias review). The draft report makes no recommendations in regard to labour given the outcomes of the Azarias review, yet the requirements noted above are considered onerous and inflexible by industry and inhibit an employers' ability to effectively train migrant workers who are yet to qualify for permanent residency status.

Any initiatives that improve the ability and skill of migrant workers employed under the 457 programme, but are yet to receive permanent residency, would be supported by the pork industry. This would improve the flexibility for employers to train their workers, whether temporary labour, skilled or unskilled migrant workers under the 457 program.

APL considers the rights and entitlements of both Australian and migrant workers employed under the 457 visa programme should be protected. The Australian pork industry is making every effort to ensure the conditions workers are employed under in the 457 visa programme are equal. It is concerning that under current arrangements, workers from countries where no reciprocal health care arrangements exist between Australia and the migrant workers country of origin, the worker is responsible for their own health cover unless agreement is reached with the employer. Therefore, the conditions migrant workers are employed under are inconsistent with regard to healthcare. APL considers that Medicare cover should be extended to all migrant workers employed under the 457 visa programme to ensure fairness and consistency.

APL will also be seeking a review of its template labour agreement to ensure that 457 visa holders seeking permanent residency can make that application six months prior to the end of their agreement (i.e. three years and six months). This avoids a costly process to obtain an extension, or to return to their home country while this process occurs.

In 2015, the then government and opposition negotiated changes to the *Migration Act 1958* and the *Migration Regulations 1994* in relation to 457 visas to ensure passage of the China FTA. These changes place more onerous obligations on employers by requiring a workforce strategy, overseas worker support plans, and that the Minister may impose conditions on a work agreement. APL sought an exemption from these requirements for the pork industry (abattoir workers were specifically exempted), but was unsuccessful. APL recommends that the Commission considers this issue in its final report, and recommends the reduction in this unnecessary burden for agriculture.

Competition regulation

Draft finding 11.2

APL supports the NFF position on competition law and industry codes of conduct as outlined in its submission to the draft report.

There is a need for constant vigilance through oversight by regulatory authorities to manage the risk of supermarkets market power in their dealings with farm businesses and wholesale merchants.

The recent changes to short form contract legislation is an effort that furthered the protection of farm businesses from supermarkets power. However, there is an inherent lack of trust for supermarkets by producers. This distrust is embedded in farmers, who are cautious even if a supermarket is offering premiums to the farmer's advantage. For example, when Coles introduced Gestation Stall Free (GSF) pork, they offered pork producers a premium to supply GSF, yet producers remain wary.

Foreign investment in agriculture

Draft recommendation 12.1

APL supports foreign investment in Australian agriculture and recognises the important role it has and will continue to play. The key issues for agriculture are not foreign ownership of land and other agricultural assets, for which the Foreign Investment Review Board (FIRB) has policy oversight. The key issue is whether foreign ownership will result in reduced market competition – an Australian Competition and Consumer Commission (ACCC) oversight matter.

The Australian pork industry has significant foreign ownership, with three of the seven export abattoirs owned by foreign entities. Given that 98 per cent of pigs are consigned directly to abattoir, the issues facing many livestock producers regarding saleyard competition is not a factor for the pork industry.

The foreign investment land and water registers have failed to deliver information to the broader Australian public on foreign ownership, and how this changes over time. APL supports improved transparency, on both the FIRB advice and the Government's decision, particularly when the Government's determination differs from the advice of the FIRB.

Draft recommendation 12.2

APL supports the recommendation to set application fees for reviewing foreign investment proposals at a level that recovers costs incurred by the FIRB. Application fees must be set to recover the costs of activities involved in reviewing and processing applications to ensure there is no over- or under-recovery of costs.

Export Regulation

Export regulation imposes costs on industry and producers, through the requirements of the Australian government to comply with importing country requirements, ultimately delivered through an export certificate. In its submission to the Commission's discussion paper, APL noted that the more significant cost is that of audits. This position remains unchanged.

Around 85 per cent of all pork produced in Australia is processed through seven export abattoirs, yet only 10 per cent of all pork processed at these abattoirs is actually exported. Export abattoirs have significantly higher requirements around food safety, animal welfare, biosecurity etc., as required through the establishment's approved arrangement. Given this, the Australian consumer benefits greatly from product intended for the domestic market but processed through export abattoirs.

APL notes that moving to private sector involvement is dependent on importing country requirements. However, as stated earlier, the Australia Government should actively support and defend Australia's robust export establishment approved arrangements, such as the Pork Australian Export Meat Inspection Scheme (Pork AEMIS).

The way forward

Information request 14.1

APL concurs that regulatory impact assessment processes ought to be used as a standard analytical tool to support quality regulation making. Historically, there have been instances of legislation changes occurring without performing a regulatory impact statement (RIS). For example, the ACT Government passed legislative changes to the *Animal Welfare Act 1992* to outlaw the use of sow stalls and farrowing crates. Despite this being primary legislation, the ACT Government did not uphold its due diligence and conduct a RIS nor was there any consultation with APL on the proposed banning of sow stalls.

Had the ACT government performed a regulatory impact statement, this would have determined that the cost for changing the *Animal Welfare Act 1992* was unnecessary given there is no impact (positive or negative) of this legislation. Moreover, as the ACT has no existing commercial pig production, this legislation was an unnecessary red tape, albeit a political statement of the day.

Before policy makers can be incentivised to correctly apply regulatory impact assessment processes, they must first make it a best practice standard to conduct these assessments. The Office of Best Practice Regulation (OBPR) should be used as a body who oversee legislative changes and not only as an advisory body for if a RIS is required or not for legislative changes.

In addition, where the OBPR makes a determination that a RIS is not required, this should be respected by state governments in lieu of conducting an individual state RIS. National harmonisation is an important principle in the RIS process where the regulation is a national approach, for example, the standards and guidelines for animal welfare.