



Presiding Commissioner Lindwall and  
Commissioner Baxter  
Regulation of Australian Agriculture Inquiry  
Productivity Commission  
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Dear Commissioners

**Regulation of Australian Agriculture - Productivity Commission Issues paper**

Thank you for the opportunity to respond to the Commission's Issues paper on regulation of Australian Agriculture. I welcome the issues paper and note the breadth of issues considered.

I am providing information on regulatory reform activities in the Department of Agriculture and Water Resources. Portfolio regulatory agencies may also provide additional information to the Commission.

The Department is responsible for administering a range of regulations that affect the agriculture sector. The role of the regulation is to support the agriculture sector and the community by:

- promoting more sustainable, productive, internationally competitive and profitable Australian agricultural, food and fibre industries;
- safeguarding Australia's animal and plant health status to maintain overseas markets and protect the economy and environment from the impact of exotic pests and diseases; and
- improving the health of rivers and freshwater ecosystems and water use efficiency through water reforms.

An audit of the regulatory burden imposed by the then Agriculture portfolio was undertaken in 2014 as part of the Government's regulatory reform agenda. It was estimated that the cost for businesses, individuals and community organisations to comply with departmental regulations was \$628 million a year as at 31 October 2013. This does not include the burden associated with the regulation of water, which belonged in the Environment portfolio at that time.

In implementing its regulatory responsibilities the Department seeks to ensure that the impacts of regulation are the minimum necessary to achieve regulatory objectives and to affect positive ongoing and lasting cultural change. The department has a significant and ongoing focus on regulatory reform, given effect through best practice regulation that takes into account the costs and benefits of regulation and considers alternatives such as self-regulation, co-regulation and non-regulatory approaches. We apply this to both new regulation and any review or reform of existing regulations.

The Department has contributed to the Australian Government's red tape reduction target of at least \$1 billion a year and is well advanced in implementing the Regulator Performance Framework. This will monitor our progress in adopting a risk-based approach to our regulatory functions and in engaging effectively with stakeholders from 2015-16.

As at 30 June 2015, decisions have been taken that, when fully implemented, will reduce regulatory burden on businesses, individuals and community organisations by an estimated \$34 million a year. This represents a decrease of approximately 5 per cent of the estimated total annual regulatory costs imposed on business, individuals and community organisations. We have also contributed to the repeal and/or improvement of regulation through two Omnibus Repeal Day Bills (including 10 major portfolio measures for repeal) and three Statute Law Revision Bills. There has also been a number of agriculture related amending Acts repealed or assessed for repeal since October 2013.

The reforms apply to a range of issues affecting agricultural producers, including access to agricultural and veterinary chemicals, modifications to the Farm Management Deposits Scheme, reforms to the livestock export supply chain system and new biosecurity legislation.

The Commission's Issues paper raises a number of specific questions on matters relating to the portfolio, specifically agricultural and veterinary chemicals, water, animal welfare and the Exporter Supply Chain Assurance System (ESCAS), biosecurity and export regulation. A response to these questions is provided in the Attachment. In addition, officers from the agricultural export regulation review team have been consulting with the Commission to advise of the proposed amendments as well as the broader conduct and findings of the review.

The agriculture sector is affected by regulatory burdens imposed outside the Australian Government Department of Agriculture and Water Resources. Significant impacts arise from regulation administered by other Australian government agencies and other jurisdictions. For example, state and territory jurisdictions have primary responsibility for the regulation of transport, environmental protection, native vegetation management, land tenure, animal welfare and the safety of domestically produced food.

A number of these matters were referenced as policy priorities in the Agricultural competitiveness green paper, published in 2014 and available at <http://agwhitepaper.agriculture.gov.au/supporting-information/key-documents>. Submissions made in response to the green paper are also available on the website.

At the Commonwealth level, the Department is seeking cross-portfolio opportunities to reduce regulatory burden. Streamlining of the 457 visa programme and implementation of the One-Stop Shop for environmental approvals are examples of reforms taken at the Commonwealth level in other portfolios that will reduce regulatory burden on agriculture stakeholders.

In addition, we are exploring cross-jurisdictional opportunities for reform through the Agricultural Ministers' Forum and the associated Senior Officials Group and a Regulatory Reform Task Group. Examples include animal welfare and water, which are discussed in the Attachment. There is also high level coordination across jurisdictional issues related to biosecurity and agricultural and veterinary chemicals.

If you require further information on the Department's regulatory reform issues please contact Lisa Elliston, Assistant Secretary, Portfolio Strategies and Land Branch

Yours sincerely

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Executive Director

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### **Regulation of Australian Agriculture - Productivity Commission Issues paper**

The following advice relates to issues raised in the Commission's Issues paper on regulation of Australian Agriculture. It relates to matters that are the responsibility of the Department of Agriculture and Water Resources.

#### **Agricultural and veterinary chemicals (agvet)**

There has been significant reform of the regulation of agricultural chemicals and veterinary medicines (agvet chemicals) over the past five years.

Reforms in 2010-13 enhanced the transparency and predictability of Australian Pesticides and Veterinary Medicines Authority (APVMA) processes and improved its ability to enforce compliance. The reforms also simplified and modernised agvet chemicals legislation to improve assessment efficiency, modernised APVMA's monitoring and investigation powers and introduced consistency in intellectual property provisions. The reforms also streamlined the process of setting maximum residue limits in foods and simplified the chemical label approval process.

More recently, the government has implemented reforms to help agricultural users of agvet chemicals increase their productivity and sustainability. These reforms include:

- allowing the self-assessment of stockfeed and pet food products of low regulatory concern, replacing the requirement for full assessment by the APVMA, saving industry \$7.8 million a year, and improving access to feed technologies available overseas
- simplifying the process for chemical registrants to make changes to have changes to products approved, replacing a costly application process
- allowing registrants to choose to renew registrations for multiple years
- allowing for multiple labels for a single registration, substantially lowering the cost for a single manufacturer of products marketed under different brands.

In relation to specific questions raised as part of the Issues Paper:

*Does the regulatory system for agvet chemicals effectively align regulatory effort with risk? How can a better system be achieved?*

While improvements have been achieved, the government recognises the need to further reform chemicals regulation to create a more efficient and effective regulatory system that appropriately aligns regulatory effort with risk.

As part of the Agricultural Competitiveness White Paper, the government committed \$20.4 million to improve access to agvet chemicals and reduce the cost of regulation while retaining protections for the health and safety of humans, animals and the environment. The government will deliver these White Paper reforms in two tranches.

The first tranche will focus on improving access to chemicals for farmers and other users and improving the efficiency and effectiveness of the regulatory system. The department is consulting with stakeholders on a range of reform options to achieve these objectives. Options include:

- for some products, accepting third-party assessments completed by accredited providers against government-developed standards
- accepting the decisions of trusted, competent overseas regulators to register products that pose comparable risks when used in Australia as they do when used overseas
- developing regulatory pathways for product registration that tailor the burden of assessment to the APVMA's level of regulatory concern of the product. For example, allowing for self-registration

of some products of low regulatory concern that comply with a standard. New chemicals and products of greater concern would be subject to the full assessment process

- reconsidering the value of functions of the regulatory system that go beyond the management of safety risks to humans, animals and the environment, such as the need for import permits in certain circumstances and efficacy assessments for some products.

The department hopes to conclude stakeholder engagement on tranche one in the first half of 2016 and, if approved by government, introduce required legislation to Parliament in late 2016 with any changes to commence from mid-2017.

The second tranche of reform will look for further opportunities to better match regulatory effort with risk by focussing on improving the national system for agvet chemical regulation. The principal reform we are exploring is for co-regulation of the use of agvet chemicals under industry quality assurance systems. The department will continue to talk to stakeholders about these matters through 2016.

*Is there scope for Australian regulators of agvet chemicals to recognise the tests and standards developed by their overseas counterparts?*

The department believes there is scope to better recognise the decisions, tests and standards developed by trusted overseas regulators when assessing applications for agvet chemical registration. As discussed above, one measure with the department is exploring with stakeholders in the first tranche of reforms will deliver on election commitments to better utilise international risk assessments and decisions for Australian agvet chemical product registrations.

This approach would not be appropriate for all agvet chemical products and we are working with stakeholders to determine where the risks are the same in Australia as overseas. Even where full acceptance of the decisions of other regulators is not be appropriate, there may be scope to reduce the burden of Australian regulatory requirements by better recognising work by trusted overseas regulators.

The APVMA and the department are also exploring options to better recognise internationally generated data, international standards and guidelines, hazard assessments completed by trusted regulators and in certain circumstances overseas decisions. These options would apply where the approach above is not suitable.

For more information about the reform measure see the department's website ([www.agriculture.gov.au/agvet](http://www.agriculture.gov.au/agvet)).

## **Water**

### *The Commonwealth's role in water regulation*

Under the Australian Constitution, states and territories have primary responsibility for water management. The Australian Government role focuses on national leadership and cooperation with state and territory governments in water resource management. The *Water Act 2007* (Cth) provides the main legislative vehicle for the Commonwealth's role in the cooperative management of water resources in the Murray-Darling Basin, while the National Water Initiative provides the policy platform for national water reform. The Act also provides for the nation-wide water information and reporting functions of the Bureau of Meteorology.

### *Commonwealth regulatory frameworks for management of water resources*

Under the Water Act, the Commonwealth administers a range of frameworks that support the management of water resources in the Basin, which in turn support the productivity and competitiveness of the agricultural sector. This includes the Murray-Darling Basin Plan which regulates Basin States to achieve sustainable levels of diversion in the Basin. It also includes the water charge, market and trading rules, which establish conditions required for efficient trade of Basin

water. The Australian Government's national water information functions and the operations of the Commonwealth Environmental Water Holder are also relevant to Basin water management.

The Commonwealth is committed to minimising the burden generated by its regulatory frameworks where possible. In 2014, a statutory review of the Water Act was undertaken by an independent Expert Panel. The Panel was asked to report on opportunities to reduce regulatory burden generated by the Water Act. The review found that the Act and its frameworks are generally effective in providing for the achievement of economic, social and environmental outcomes.

The Panel made a number of recommendations to streamline regulatory burden, including recommendations to review the regulatory requirements of water information collection by the Bureau of Meteorology and the water charge rules administered by the Australian Competition and Consumer Commission. These reviews are expected to deliver their final advice in early and mid-2016 respectively and are anticipated to reduce flow on costs for farmers associated with delivery of water and access to water information.

The Panel noted that more time was required to adequately determine the impacts of the Basin Plan, which only commenced in late 2012 and in many respects will not come into force until 2019.

In considering the merits of Australian Government regulation of water market intermediaries, the Panel recommended that industry develop an industry-led regulatory scheme that could include voluntary accreditation, a code of conduct and a defalcation fund. Consistent with the Government's regulatory reform agenda, the Government has accepted this recommendation, recognising that there have been very few reported cases of misconduct and no evidence of overall impacts on the water market that warrant regulatory intervention. The Government is also exploring options that may improve transparency in the water market and improve market confidence and participation.

*Other Commonwealth water initiatives to improve the competitiveness and productivity of the agricultural sector*

The Australian Government is undertaking water infrastructure projects throughout the Basin and has recently committed to greater nation-wide investment in dams as well as water infrastructure in Northern Australia. These measures will improve agricultural productivity and competitiveness and build more sustainable farming communities across Australia.

The Government has recently brought forward legislation to improve transparency and management of foreign purchases on national security, competition, taxation, and the broader economy and community. As part of these reforms, the Government has committed to develop a register of foreign ownership of water access entitlements.

The National Water Initiative, agreed in 2004 by the Council of Australian Governments, is a shared commitment by governments to increase the efficiency of Australia's water use, leading to greater certainty for investment and productivity, for rural and urban communities, and for the environment.

## **Animal welfare and the Exporter Supply Chain Assurance System**

### *Animal Welfare*

Australia's three tiers of government each have animal welfare responsibilities. While animal welfare responsibilities vary between jurisdictions, legislative responsibility for animal welfare within Australia rests primarily with state and territory governments, and local governments. The Australian Government's responsibilities for animal welfare arise from specific powers in relation to external trade and treaties that encompass some animal welfare issues.

Under the Australian Animal Welfare Strategy, the Commonwealth, state and territory governments are working together to develop nationally consistent standards and guidelines for livestock. The welfare standards and guidelines are based on the revision of the current Model Codes of Practice for the Welfare of Animals (MCOP). The Australian Animal Welfare Standards and Guidelines are being developed under the auspice of the Agriculture Ministers' Forum (AGMIN), Agriculture Senior Officials Committee

Final documents are made available on the internet at [www.publish.csiro.au](http://www.publish.csiro.au) and [www.animalwelfarestandards.net.au](http://www.animalwelfarestandards.net.au).

### *Exporter Supply Chain Assurance System specific arrangements (ESCAS)*

Export legislation requires exporters of feeder and slaughter livestock to comply with the Australian Standards for the Export of Livestock (ASEL) and the Exporter Supply Chain Assurance System (ESCAS). An ESCAS must demonstrate that livestock handling in the supply chain in the importing country will conform with World Organisation for Animal Health (OIE) recommendations for animal welfare, up to and including the point of slaughter. Industry has achieved a high level of compliance with ESCAS since its implementation in 2011 (ESCAS report 2015 - <http://www.agriculture.gov.au/export/controlled-goods/live-animals/livestock/information-exporters-industry/escas/escas-report>).

The Department of Agriculture and Water Resources is committed to reducing unnecessary or inefficient regulation imposed on individuals, business and community organisations, consistent with the Australian Government's Regulator Performance Framework. The department has implemented a number of reforms that create a more effective, risk-based approach to administering livestock export regulation, while maintaining international animal welfare standards.

Livestock exports are an important, ongoing trade for Australia. The industry employs around 10 000 people, contributes significantly to the country's economy, supports many rural and regional communities, and underpins better economic returns at the farm gate.

The cost of complying with the offshore requirements of ESCAS was estimated in 2014 to be \$11.9 million each year plus a further \$5.9million annually in departmental costs, some of which were recovered from exporters (ESCAS report 2015).

While exporters of feeder and slaughter livestock have stated that ESCAS affects their competitiveness within import markets, the regulations aim to ensure the long term future of the trade by ensuring Australian community and importing country expectations are met.

To defray some of the costs of establishing supply chains and demonstrating ongoing compliance, in 2011 the government funded a joint Meat and Livestock Australia and industry assistance program to help exporters improve facilities they supply in importing countries.

The Australian Government also continues to work internationally and regionally with the World Organisation for Animal Health (OIE) to improve animal welfare standards. Where animal welfare standards improve in livestock export market countries, this will assist the competitiveness of Australian livestock exports as well as achieving improved animal welfare outcomes internationally.

On 11 September 2014, Minister Joyce announced several ESCAS reforms, to revise and streamline the animal welfare standards and audit policy, and allow a standing ESCAS approval process so that exporters do not have to submit an application for an ESCAS for every consignment (notice of intent to export (NOI)). These reforms were implemented following consultation with Australian livestock industry and animal welfare group representatives. The reforms reduce tape and paperwork and allow industry and the department to manage risk, while maintaining or improving animal welfare outcomes.

Reforms have reduced the costs associated with ESCAS (ESCAS report 2015):

- The standing ESCAS process has reduced the time taken to assess applications by an estimated 61 per cent for sea consignments and 34 per cent for air consignments.
- The revised animal welfare checklist and guidelines have streamlined the audit process, and allowed auditors to focus on risk rather than paperwork.

- The risk-based auditing policy for ESCAS supply chains recognises and rewards the good performance of exporters or facilities, and provides commercial incentives for them to implement continuous improvement in their facilities. This approach was estimated to reduce audits by about 30 per cent for compliant supply chains and reduce costs to industry by almost \$2 million, while allocating government resources to the areas of higher risk.

To assist independent auditors to use the new checklist and guidance material, on 27 November 2014 the government announced \$256 000 funding for MLA to deliver ESCAS auditor training in south-east Asia and the Middle East. This training was delivered in May and June 2015.

The aim of the reforms is to reduce costs to industry over time, while maintaining international animal welfare standards.

The Department of Agriculture and Water Resources has systems and processes in place to assess applications to export livestock, monitor supply chain performance, and investigate valid reports of non-compliance received from internal, public or industry reports. Assessment of applications includes checks that exporters are aware of regulations and are planning for appropriate animal welfare within Australia, ESCAS supply chains, and to meet importing country requirements. Investigations of non-compliance are designed to ensure exporters are held to account and that proportionate regulatory action is taken on any confirmed non-compliance.

The latest ESCAS regulatory performance report which was released on 10 December 2015 outlines in more detail the full range of regulatory, corrective and preventative actions implemented by the department, exporters and industry during the reporting period (1 July–30 November 2015). These reports are released quarterly by the Department of Agriculture and Water Resources.

## **Biosecurity and export certification**

### *Export Certification*

Agricultural export legislation enables the department to oversee the export supply chain and provide assurance to Australia's trading partners that their specific requirements for exported goods have been met. This underpins Australia's reputation as a reliable supplier of quality products and has helped us capture and maintain overseas markets. However, the current framework is extensive and consists of 21 Acts (including the *Export Control Act 1982* and the *Australian Meat and Live-stock Industry Act 1997*) as well as more than 40 pieces of delegated legislation (which includes regulations, orders and declarations).

The Government announced on 3 December 2015 that it would make improvements to agricultural export legislation to better support farmers and exporters, and facilitate market access into the future. This follows a review and consultation with stakeholders to identify what works well in the existing legislation and what could be improved. The review found that while the legislation has served our exporters well over the past 30 years, there is scope to make improvements to enable exporters to meet future importing country requirements and seize future opportunities. Continuing to modernise the framework will mean our farmers and exporters are supported by contemporary, flexible, and efficient legislation that can respond to a range of situations into the future. This includes making the rules for exporting easier to understand and apply as well as providing a more effective set of enforcement tools to prevent those who don't follow the rules from bringing the system down for everyone.

The improvements will be developed over the next few years and there will be further opportunities for stakeholders to be involved and comment on proposed changes to legislation.



## *Biosecurity*

The Biosecurity Bill 2014 and supporting legislation received royal assent from the Governor-General on 16 June 2015 and has now become the *Biosecurity Act 2015* (Biosecurity Act). The Act will commence on 16 June 2016, replacing the *Quarantine Act 1908* (Quarantine Act). The 12 month delay will ensure clients, staff and stakeholders understand their rights and responsibilities under the Biosecurity Act and ensure a smooth transition to the new regulatory arrangements. Some parts of the legislation have transitional arrangements and further delayed commencement dates. The full benefits are expected to be realised over a ten year period. Just as with the Quarantine Act, the Biosecurity Act will be co-administered by the Ministers responsible for Agriculture and Water Resources and Health.

The Biosecurity Act represents a comprehensive modernisation of Australian biosecurity legislation. The Act has been designed to be flexible and responsive to changes in technology and future challenges. The legislation is designed to reduce unnecessary red tape and provide a more flexible risk based approach to compliance. A Regulation Impact Statement (RIS) was prepared for the legislation. This is available at <http://ris.dpmc.gov.au/2014/07/25/biosecurity-legislation-regulation-impact-statement-department-of-agriculture/>

The Office of Best Practice Regulation (OBPR) has agreed that the overall effect of the legislation is a reduction in regulatory burden on business (estimated at \$6.9 million a year averaged over ten years). This is the result of clearer, easier to use legislation and improved processes. However the compliance cost burden on some industry participants is estimated to increase. This is primarily through increased regulation to manage the biosecurity risk associated with ballast water by domestic vessel movement.