



## Australian Chicken Meat Federation (ACMF) Inc

12 February 2016

Regulation of Australian Agriculture  
Productivity Commission  
Locked Bag 2, Collins St East PO  
Melbourne VIC 8003

### **RE: ACMF comments on Productivity Commission Inquiry into Regulation of Australian Agriculture**

The ACMF appreciates the opportunity to provide input to the Productivity Commission's inquiry into the regulatory burdens faced by Australian agriculture.

The Australian Chicken Meat Federation Inc. (ACMF) is the peak coordinating body for participants in the chicken meat industries in Australia, representing all elements of the chicken meat industry in Australia, including chicken growers and processors, at the national level.

The ACMF was formed in 1964 and our members are the five State Chicken Meat Councils (Queensland, NSW, Victoria, SA and WA), the Australian Chicken Growers' Council and the Australian Poultry Industries Association, the latter representing the chicken meat processors that produce 95 per cent of Australia's chicken meat.

Through its State organisations, ACMF also represents a range of other suppliers to the industry, providers of services to the industry, and customers of the industry, who are involved in the production and distribution of chicken meat in Australia.

Chicken has for some years now held the position of Australian consumers' favourite meat. Per capita consumption of chicken meat is expected to exceed 46 kg in 2015-16, with further growth expected in coming years. Research conducted by the ACMF in 2014 showed that 94% of the population eat chicken, and a third of Australians who eat chicken do so at least three times a week. Increased demand for chicken meat has unquestionably been driven by substantial changes in the affordability of chicken meat due to a long term reduction in the real price of chicken meat. This in turn has been made possible by significant, and ongoing, improvements in efficiency and productivity achieved by the industry over the past five decades.

The vast majority of chicken meat available to Australian consumers is produced locally, and sales of chicken meat and chicken meat products in Australia are estimated to exceed \$6 billion annually. The

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ACMF would therefore contend that Australia's consumers, have a strong interest in ensuring the productivity, competitiveness and viability of the Australian chicken meat sector.

The ACMF accepts that many regulations are necessary to protect business owners, consumers, employees, the environment and animal welfare. However, where regulations are overly burdensome, duplicative, or inconsistently applied between jurisdictions or local governments, it can lead to unnecessary burdens which reduce industry's productivity, efficiency and competitiveness. These burdens also effect where the industry locates and grows, from regions where it might be most efficient to operate to regions where it may be easier to do business.

### **Development Application Process and Approvals**

Expansion by either chicken growers or processing companies requires submission of individual development applications (DAs).

Current planning processes present significant impediments to continuing industry expansion—indeed, the industry is having difficulty in bringing on line sufficient new capacity to keep up with growth in consumer demand.

The development approval processes are invariably slow, costly and frustrating for industry. Extensive delays in the approval process are common. Opportunities exist to improve the competitiveness of chicken businesses by reducing planning approval requirements, and potentially by streamlining DA processes.

There are significant inconsistencies between local councils in the interpretation of planning requirements for similar operations, and the time, difficulty and success in obtaining approval varies between states and local councils. Under the current arrangements the outcomes of development applications often appear to depend on the particular bias of local authorities towards (or against) chicken meat production rather than the merits of the particular application. This has the effect of distorting which chicken companies are able to expand and which not, and contributes to the movement of location of chicken production from where it is most efficient to operate to where it is easiest to do business.

The legislative restrictions and regulations and the associated oversight and enforcement by a multitude of different local and state governments in the planning process are burdensome. The approach taken in each State is different. For example, State government requirements relating to air quality (in particular odour and dust) and noise differs between jurisdictions. The management of these in the DA process also differs by jurisdiction. For example, in some states, site specific odour modelling is required to support a DA, requiring the use of consultants to develop technically complex atmospheric models around site data to support the application.

There is some duplication / overlap in consideration of specific aspects of DAs by state and local governments, particularly with respect to the environmental aspects of the application. Local governments should not be able to make their own rules regarding environmental aspects of poultry farm development applications.

Planning rules and guidelines are often quite broad, and this contributes to inconsistent and subjective interpretation by local councils.

The costs of progressing a DA for a poultry farm are substantial. In states where odour modelling in support of a DA is required, the up-front consultancy costs associated with the preparation of a DA can start at \$50,000 - \$60,000 by the time the Environmental Impact Statement has been prepared (including the cost of odour dispersion modelling). Depending on feedback, consultancy fees of the order of \$100,000 can easily be incurred simply in preparing the DA.

If a DA goes to appeal, the cost could start at \$150,000 / farm (for the appellant alone). A large number of DAs do go to appeal (although this varies by state and by local government area). If a DA goes to court, the cost could be upwards of \$250,000 for the appellant alone.

As an example of this burden to the chicken meat industry, if we assume that there are, conservatively, six new farms established across Australia each year, then the minimum cost to the industry alone is estimated to be \$1.5 million for those farms *for which applications have been successful* (i.e. not taking into account those applications which have not ultimately been successful).

Difficulties in finding sites which are likely to receive development approval, and the costs involved in pursuing a DA, puts significant pressure on the industry to build farms which are probably bigger than ideal in a biosecurity context, as once a site is identified which has a prospect of success, the emphasis of the developer is often on making the most of the opportunity by maximising the size of the farm put on it, and defraying the cost of the DA process over a greater production capacity.

One example of **excessive and unnecessary** regulatory burden associated with the development and expansion of poultry farms can be found in the application of the Australian Building Code. Under this Code, poultry sheds are now classified as a building where goods are stored or wholesaled (e.g. a warehouse) or where a process takes place (e.g. factory, workshop), rather than as “a non-inhabitable building being a private garage, shed, or the like”. Poultry houses have an extremely low human occupancy rate – the ACMF estimates total occupancy of 1,092 person hours which is less than 3 person hours per week (from calculations made and presented to the review of the 2016 Australian Building Code). For poultry sheds to be equated to a factory or warehouse where human occupancy rates would be expected to be significantly higher is in the ACMF’s opinion unreasonable.

The current classification means that new poultry sheds are required to comply with a range of costly infrastructure additions that have no or negligible impact on the safety of the operation.

The most contentious issue in the 2016 Code is the requirement for water storage and/or hydrants for fire brigades. The types of fire that may occur on poultry farms tend to fall into two categories - one that can be extinguished by the farmer immediately and very rapidly (normal farm infrastructure would include a water supply to each shed which could be used by the farm staff to contain any spread of a fire) **or** one in which the affected shed is totally engaged and on the point of or have collapsed within 10 minutes of ignition. In the latter case, fire brigade response time would need to be less than 10 minutes for intervention to have any impact, and there is therefore little value in having storage tanks and hydrants for use by fire crews, and the requirement for these becomes an unnecessary cost and complication. Typically a new poultry farm could contain 8 -10 sheds (each approximately 18m x 150m in dimension), which could require a number of tanks and considerable pipe work to supply hydrants or multiple tank sites with outlets given the distances required by the Code. The cost of complying with these requirements is substantial. For example, one farm in Victoria was recently forced to install a ring main to comply with the Code at a cost of \$24,500 per shed. If we assume that there are 55 new sheds built each year, the minimum cost to the industry nationally of complying with this particular requirement of the Building Code is \$1,347,500 pa. The cost of complying with other requirements associated with the current classification of poultry sheds under the Building Code could well bring the total cost to \$50,000 per shed, or \$2,750,000 across the industry nationally each year.

*The ACMF recommends that:*

- *Poultry farming regulations regarding DAs require rationalisation.*
- *At a state government level, there should be a common set of planning guidelines that apply to poultry farm DAs that are agreed nationally and applied consistently. Consideration could be given to an approach whereby all DAs relating to chicken farms are assessed on a state level by a single panel with expertise in poultry enterprises.*

- *There should be clearer guidance given as to how these guidelines are to be applied specifically in a poultry farm DA context.*
- *Local councils should not have control over environmental approvals for poultry farms.*
- *Future reviews of the Australian Building Code must recognise low human occupancy animal production sheds in a different category of farm building than currently applies.*

## **Land Use Planning**

Local planning zones often allow for a range of agricultural uses and structures, including poultry farms, under permit. However, competing non-agricultural uses (such as for primarily residential or lifestyle purposes) in designated farming zones have third party notice and review rights, and this often leads to conflict and additional cost burdens on farming businesses in meeting these demands, both when seeking permission to build or expand a poultry farm, or in response to complaints against existing farm businesses. Lack of consideration of agriculture by government planners sets up conflicts between new residential or lifestyle neighbours with existing chicken farming businesses without adequate consideration of the potential flow on effects in terms of the viability of the industry.

Urban and lifestyle block encroachment onto traditional (or zoned) rural areas creates significant problems for the chicken meat industry, which to remain viable needs to operate in 'clusters' of a sufficient number of growing farms supplying to a processing plant that is within a reasonable transport distance of the plant. The latter issue of distance of farms from the processing plant is primarily driven by animal welfare concerns, ensuring that birds do not need to be transported for long durations, but also has significant effects on operating costs. For many chicken companies, the difficulties in getting approval to expand farming operations in their traditional farming areas, primarily due to land planning constraints, mean that their live bird transport distances are increasing. This is particularly the case for processors which have their processing plants close to markets, as farms are having to be located in increasingly more isolated areas, increased distances from plants. For example, Sydney-based processing companies are now having to source from farms in Goulburn and Cessnock – 2.5 hour transports from farm to plant. As a result, live bird transport costs are increasing – one company estimates that its live haulage costs are at least 3c/kg of bird higher than its competitors which have processing plants located in country areas, and that the total cost of this to their operation exceeds \$2m per annum.

The chicken industry is perhaps more prone to being impacted by the encroachment of urban and non-agricultural uses on rural areas than most other rural industries because, ironically, one of the 'advantages' of the chicken industry is that chicken farms do not require large tracts of prime agricultural land to establish on, as is the case for many agricultural pursuits, and can operate on otherwise marginal land that is either unsuitable, or not ideal for, other agricultural purposes. These are often the areas also favoured for residential development.

**The ACMF is concerned that there seems to be little consideration given by local land planners to the rights of existing farmers to conduct their business without additional restrictions being imposed because councils have allowed residential dwellings to be built, or subdivisions of land conducive to lifestyle blocks to occur, too close to existing farms.**

Rather than new residential or other non-agricultural users dictating what an existing farm can do in an area zoned for rural use, the expectation should be that if you buy into these areas, they are for genuine agri-business, and there should be reduced opportunity for complaint against established and reasonable industry practice. The ACMF accepts the right of neighbours to complain. However, we are concerned that often there is over-emphasis given to the rights of the complainant as compared to the farmer and that there are inadequate mechanisms to identify and deter vexatious complainants (or complainants with ulterior motives).

*The ACMF recommends that:*

- *Provision in planning regulations should be made for reverse amenity, so that subsequent developments in areas surrounding existing intensive animal farms do not bring the 'nuisance' to an existing farm. For example, consideration should be given to an approach which requires the same separation distances to apply to residential dwellings from existing poultry farms as apply to new poultry farms from existing residences.*
- *In land zoned for rural development, agribusinesses should be allowed to operate, without excessive operating restrictions being placed on them by local governments as a result of concerns / complaints from other non-agricultural land users within the zone.*
- *Planning regulations should reflect an expectation that if you buy in areas zoned for agri-businesses, then they are for genuine agri-business, and reduced opportunities exist for other landholders in the zone to complain against the agri-business, including that the onus should be on complainants to substantiate a complaint.*

## **Environmental regulations**

While the chicken industry recognises and accepts the need for it to minimise environmental impacts on its neighbours, the community and the environment more broadly, environmental regulations can and do present significant impediments to continuing industry competitiveness, productivity and growth.

Many environmental regulations and policies made at the state level profoundly impact on the efficiency and productivity of the chicken industry, in that they impose operational and planning restrictions that are difficult and/or extremely costly to comply with. They sometimes also result in perverse outcomes in terms of animal welfare, biosecurity and even food safety.

This is magnified in circumstances in which local governments are left to interpret and implement (sometimes quite inconsistently and subjectively) what are in some cases fairly broad state-based regulations and guidelines.

The impact of state-based industrial noise and odour policy, in particular, has been significant.

Environmental policies often lump animal agriculture in with other non-agricultural, industrial pursuits, with little regard for the inherent differences between these industries, particularly that agricultural industries are dealing with biological processes. There are additional constraints placed on chicken farming that specifically stem from this, including biosecurity and animal welfare requirements.

To cite a specific example of this, while a recent review of NSW industrial noise policy (the *Draft NSW Industrial Noise Guideline*) does not specifically mention agriculture, it seems that the *Draft Guideline* will be applied to agriculture, as agricultural pursuits are not specifically excluded from it. Noise generated by poultry farms and related activities would therefore be subject to the *Draft Guideline*, despite the fact that the *Draft Guideline* seems to have been essentially designed for non-agricultural industrial pursuits and appears to ignore agriculture and its specific needs. **The noise trigger levels set in the *Draft Guideline* are unrealistic and unachievable for chicken farming operations**, and in the absence of clear guidance as to how the noise impacts from these operations should be managed, local governments will continue to respond to this in a piecemeal and inappropriate manner, including through the imposition of curfews on chicken harvesting operations. However, curfews are not an appropriate management tool for an industry for which animal welfare is such a significant imperative. To explain the impacts of this:

- In most locations, night time harvests (pick-ups) are optimal for a range of logistical and animal welfare reasons. Daylight pickups are more likely to present welfare risks due to exposure of birds to elevated temperatures during pick-up and transportation, as well as increasing the risk of transport delays due to traffic.
- Increasingly, councils are imposing curfews on when chicken pick-ups can occur, in response to industrial noise policy. Early evening curfews (e.g. no pick-ups after 10pm), force processing

companies into daylight pick-ups in order to harvest birds from farms in a timely manner. This creates severe cost and animal welfare issues, particularly if a processor has a number of farms on curfew, as it is simply not possible to get around and pick-up from all curfew farms by the required time. In addition to forcing processors into suboptimal daylight pick-ups, curfews also invariably result in processors having to increase the number of pick-ups from each farm (i.e. fewer birds pick-up on more occasions) which results in greater welfare and biosecurity impacts.

- Imposition of curfews also prevents processors from optimising transport logistics, because the overriding factor becomes the need to be off farms by a certain time. The flow-on impact of picking up smaller numbers of birds, more frequently, from farms under curfew is inefficient and can extend the overall batch time.

To summarise, current operating restrictions imposed at both State and Local Government levels, coupled with the previously described issues related to land planning and conditions of permit, impact on the chicken industry in a variety of ways, including:

- Significant loss of productivity and imposition of higher costs
- Creation of significant animal welfare and biosecurity issues
- Stifling industry growth, and the building of new and modern facilities (in turn impacting on industry efficiency)
- Creation of distortions in terms where industry carries out chicken production activities.

*The ACMF recommends that:*

- *In the development and implementation of environmental regulations and guidelines which impose operational restrictions on agricultural industries, particularly where they relate to issues concerning community amenity as opposed to actual environmental degradation, rights of farmers to operate in zoned rural areas in the most efficient manner, must be considered.*
- *There should be clearer guidance given in state environmental guidelines as to how these are to be applied specifically in the case of a poultry farm.*

## **Animal Welfare**

Although consistency in implementation of nationally agreed standards improved somewhat in the case of the Land Transport Standards, the current system allows for inconsistency across Australia in terms of what the rules are, and importantly how they are enforced. Regulatory inconsistency creates the possibility of a range of burdens, including higher compliance costs where inspection / 'auditing' of industry against regulatory requirements is implemented (noting that, although the state may bear the cost of inspections / audits, there is a cost to farmers, in terms of preparation for and participation in an inspection or audit).

There are also costs for industry that are incurred simply in the internal procedures for management and monitoring of regulatory compliance within the business. For companies which have operations in more than one state, this means that they need to be checking their internal standards for compliance with regulations on a state-by-state basis, rather than against one common set of standards and compliance procedures.

The ACMF believes that, not only is the current state-based approach inefficient, but that there needs to be strong national leadership in this particular area. For this reason, we strongly favour the concept of regulatory responsibility for domestic production animal welfare reverting to the Commonwealth Government, rather than being regulated at a jurisdictional level.

*The ACMF supports the principles of:*

- *Commonwealth government to have responsibility for regulation of production animal welfare.*
- *In the absence of the above:*

- *strong national leadership in production animal welfare, and*
- *nationally harmonised legislation in respect to animal welfare.*

## **Food Safety**

Food safety is critical to the chicken industry, and regulation in this area is necessary to protect consumers and also the reputation of the product and the industry itself. A food safety incident associated with chicken, no matter how localised the source, has the potential to do enormous damage to the industry more broadly, through loss of consumer confidence in chicken. The ACMF therefore believes that all producers of chicken meat, no matter how big or small, must comply with a common set of standards and compliance arrangements.

Inconsistency in the approach taken by state-based regulators to the implementation of the Poultry Primary Production and Processing Standards, developed by FSANZ, is another case where the burden of regulatory compliance varies between jurisdictions and affects the relative competitiveness of the industry operating in different states. For companies with have operations in more than one state, there is also a cost burden associated with the management and monitoring of internal standards for compliance with regulations on a state-by-state basis, rather than against one common set of standards and compliance procedures.

Food safety is therefore yet another area where the development of a nationally consistency regulatory regime that reflects the cross-jurisdictional nature of the chicken meat industry is a key priority.

## **Agricultural and Veterinary Chemicals**

While applauding the planned reforms in this area, and the reforms that have already been made, particularly with respect to low risk products, the ACMF believes that both the cost and time required to register new products in Australia are excessive, and represent a significant impediment to bringing new products (both those available overseas and those developed locally) to market here.

The ACMF supports the better use of overseas data package to support the registration here of products that are registered and available overseas.

The introduction of mandatory re-registration of agricultural and veterinary chemicals every 7–15 years (flowing from the introduction of the *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013*) appears to unnecessarily duplicate an existing program (the Chemical Review Program already undertaken by the Australian Pesticides and Veterinary Medicines Authority), potentially adding to the workload of an overstretched regulator already unable to meet reasonable deadlines for new product evaluation.

## **Access to GM Technologies**

Improvements and efficiencies made through genetic modification of various inputs into chicken production have the capacity to significantly improve the productivity and competitiveness of the Australian chicken meat industry. However, the time, cost and uncertainty of putting a product to the regulator (Office of the Gene Technology Regulator) is a significant disincentive to investment in the development of new technologies, such as some potential poultry vaccines, that involve the use of gene technologies. Given the now significant experience, both here in Australia and overseas, in the application of gene technologies and commercialisation and adoption of products derived from them, there would seem to be a case for a risk-based review to be undertaken of the current legislation with respect to the level of scrutiny required for certain products and technologies used.

## Summary

The areas of regulation highlighted above represent the regulatory issues currently of particular concern to the chicken meat industry in the context of this inquiry. Of most concern are those areas where there is a regulatory involvement at both state and local government levels, or where there are regulations that vary across jurisdictions, thereby imposing additional cost burdens on the industry. The development of a nationally consistency regulatory regime that reflects the cross-jurisdictional nature of the chicken meat industry should be a key objective in these areas.

Although not specifically addressed in the above, regulations pertaining to workplace health and safety, transport, biosecurity, water access, food labelling and standards, food certification for export, native vegetation, and visas for temporary workers all potentially create regulatory burdens for some sectors of the industry and are also of interest to chicken producers, although they have not been specifically mentioned in this submission.

Thank you for the opportunity to provide input into this inquiry.

Yours faithfully,

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Executive Director