



**Productivity Commission Issues Paper — Regulation of
Australian Agriculture**

Submission from the South Australian Government

February 2016

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Introduction

The South Australian Government welcomes the opportunity to provide a submission to the Productivity Commission Inquiry into the Regulation of Australian Agriculture.

Agriculture is an important contributor to South Australia's economic wellbeing, with around \$18.2 billion in gross food and wine revenue in 2014/15¹ and employing nearly one in five South Australians.

One of the South Australian Government's 10 economic priorities is *Premium Food and Wine Produced in our Clean Environment and Exported to the World*.

Achieving the export and other targets under this objective is underpinned by robust regulatory frameworks associated with biosecurity, food safety, sustainable management of natural resources and our non-GM status which gives primary producers and food and wine manufacturers a competitive edge in the global marketplace.

Through this economic priority, South Australia is taking action to enable farm businesses to achieve prices commensurate with the State's reputation as a supplier of premium food and wine from our clean environment.

Reducing the regulatory burden on farm businesses is also an important pathway to increasing the competitiveness and productivity of Australian agriculture. This economic priority therefore includes simplifying and modernising regulatory arrangements to support innovation and job creation as one of its objectives and South Australia is making good progress to achieving this.

In advising on regulatory reform priorities, the South Australian Government encourages the Productivity Commission to consider:

- the opportunities associated with increased access to and securing premium prices for Australian agriculture in international markets;
- regulatory burden costs on agriculture;
- the potential opportunities for farm businesses to diversify or increase incomes through new enterprises (e.g. licit poppies, carbon farming) or more productive existing activities; and
- the inter-relationship between regulation (including Acts, subordinate legislation, codes, guides and standards) at and between all levels of government.

¹ Source: Food and Wine Score Card 2014-15 PIRSA

Summary

This submission focuses on matters raised in the Productivity Commission Issues Paper where the South Australian Government envisages there is a potential material impact on the competitiveness and productivity of farm businesses. Below is a summary of some of the approaches being used in South Australia, positions taken by the South Australian Government and recommendations for consideration that are contained in the body of the submission.

Regulatory processes and industry engagement

- The South Australian Government is working to remove barriers to business growth, accelerate approval processes and ensure that State regulations support opportunity rather than create burdens. Models that engage stakeholders in innovative and genuine partnerships should be used to deliver reform.

Land Tenure and Use

- Regulatory process reforms in land use planning can support industry engagement and potentially lessen the burden of existing regulation. Initiatives being progressed in South Australia include streamlining assessment pathways.
- Greater consistency in the application of Building Code Specifications for farm buildings should be considered.

Environmental Protection – Managing the Resource Base

- Appropriate regulation and management of natural resources and the environment supports primary producers over the short and long term, maintaining and/or improving the viability, sustainability and profitability of individual businesses and the agriculture sector as a whole. It facilitates the South Australian Government's economic priorities by supporting market access growth and flexibility, and providing a foundation for South Australia's reputation as a supplier of premium food and wine from our clean environment.

Climate Change

- Any regulation in this area should be sufficiently flexible to support diversification of farming enterprises and changing on-farm systems. The Australia Government should develop an Emissions Reduction Fund methodology to enable primary producers to verify and sell carbon credits generated from broadacre cropping systems.

Environmental Protection and Biodiversity Conservation Act

- The South Australian Government gives a high priority to reducing environmental red-tape while still ensuring environmental sustainability. This supports investment in agriculture, facilitates market access and supports South Australia's reputation as a supplier of premium food and wine from our clean environment.

Access to technologies and chemicals

- The South Australian Government is broadly supportive of the approach to refining and delivering the agriculture and veterinary chemicals regulatory reform proposed in recent Australian Government discussion papers. Further consideration is recommended however of additional costs that may be incurred by primary producers and state control of use enforcement agencies in relation to changes proposed to labelling requirements for spray drift by the Australian Pesticides and Veterinary Medicines Authority.

- In relation to the use of non-Australian data by regulatory agencies consideration should be given to establishing a mechanism for example through a national standing committee or similar technical group to undertake the setting of guidance or criteria for selecting non-Australian tests and standards.

Water

- The requirement for the fair and effective management and protection of water resources is of recognised critical importance in South Australia. The South Australian Government is committed to transparent, efficient and effective water markets, working to implement the Basin Plan trade rules that have assisted in the removal of remaining water trade restriction.

Transport

- The regulatory burden across road, rail, port and air freight can be reduced by partners in the agricultural transport supply chain adopting an integrated logistics framework (e.g. “paddock to plate”). Australian Government leadership is needed to coordinate a national response to reducing regulatory burden across all sectors of the supply chain.
- It is recommended that potential amendments to the *Competition and Consumer Act 2010* in relation to liner shipping be reconsidered to ensure potentially negative impacts on access to container shipping services for the agricultural sector are taken into account.

Animal welfare

- As ethical food and credence values are becoming more important in export markets, national animal welfare standards are of strategic value in export markets meeting expectations for “animal welfare friendly” products.
- The current regulatory system would benefit from greater leadership by the Australian Government in steering animal welfare policy and legislation beyond livestock export and quarantine.
- Reinstating support for the Australian Animal Welfare Strategy should be considered.

Biosecurity

- Australia’s approach to biosecurity risks has reduced the costs to business through improved productivity by avoiding crop or animal losses from pest and disease incursions. The system is fundamental to securing market access to high value, biosecurity sensitive export markets. This commitment needs to be maintained.
- National leadership is needed to resolve interstate trading that may be in excess of the ‘Acceptable Level of Protection’ (ALOP) under the *Biosecurity Act 2015*.

Consumer-related regulation

- The Issues Paper canvasses the potential to recognise private sector standards for audits conducted by government agencies. Industry standards are highly variable, brand specific and based primarily on brand protection. South Australia has in place systems to recognise private sector audits based on food safety risk. The regulatory audits conducted are based on nationally agreed food standards. It is recommended that consideration be given to industry developing a mechanism for recognising audits conducted by food safety regulators.

Competition Regulation

- The South Australian Government, in its submission to the Australian Government's Competition Policy Review, agreed that governments should generally avoid policy and legislation that restricts competition, unless the benefits of the restriction to the community as a whole outweigh the costs, and the social objectives of such a policy or legislation may only be achieved by restricting competition.

Investment

- In its response to the Australian Government's Agricultural Competitiveness Green paper, the South Australian Government supported "improving the transparency of foreign investment", recognising the need for foreign investment into agriculture for the future, along with the risks associated with foreign investment and public concern over the extent of foreign ownership of agricultural land, water and agribusiness.

Regulatory processes and industry engagement

The South Australian Government is working to remove barriers to business growth, accelerate approval processes and ensure that State regulations support opportunity rather than create burdens. For example, the South Australian Government has successfully implemented two rounds of red tape reduction which have generated ongoing cost savings to business of \$321 million per annum.

Other recent South Australian Government initiatives include appointing a Coordinator-General to assist investment proposals worth more than \$3 million, implementing the “Simplify” program to assist Government to become more efficient and the Change@SA program.

The South Australian Government’s Simpler Regulation Unit is working with business to review laws and regulations as well as administrative procedures and guidelines that impose significant costs or delays on business. Regulatory activities across all three tiers of government are being considered with the aim of reducing any unnecessary overlap or duplication of effort.

The South Australian Government uses a number of processes to guide regulation. We continue to follow the Council of Australian Government (COAG) Principles of Best Practice Regulation. South Australian regulators also use the South Australian Better Regulation Handbook as a guide in designing and reviewing regulation.

Within the Change@SA program, South Australian Government agencies have delivered a number of ‘90 day projects’ where regulatory reform opportunities have been identified and implemented. 90 day projects serve as a useful process in bringing industry and government together to instigate and deliver timely regulatory reform.

Examples of relevance to agriculture include:

- Improving road transport for the agriculture industry;
- Establishing a whole of government approach to camel industry development;
- Responsive and contemporary land use planning for primary industries; and
- Improving trade waste outcomes for the food and beverage industry.

The South Australian Government recently released a South Australian Multiple Land Use Framework (MLUF), which seeks to minimise land use conflict and provide greater certainty for industry, communities and regulators for the benefit of South Australians. It also seeks to increase transparency and consistency in decision-making. This will enable more effective and targeted engagement with communities on land use change.

More details can be found on the YourSAy website <http://yoursay.sa.gov.au/>.

YourSAy is a stakeholder engagement process reform which has seen more than 41,000 South Australians influence decisions made by the South Australian Government.

Land tenure and use

Land use planning

The South Australian Government's response to land use concerns such as those listed in the Issues Paper is to comprehensively re-shape the regulatory landscape. Two initiatives being progressed in South Australia are:

1. Changes to the South Australian Planning System as proposed in the *Planning, Development and Infrastructure Bill 2015*.
2. Character Preservation Laws to protect two distinct districts, the Barossa Valley and McLaren Vale, from urban encroachment.

Planning, Development and Infrastructure Bill 2015

The *Planning, Development and Infrastructure Bill 2015*, which was introduced in the South Australian Parliament in September 2015, sets a new framework and structure for South Australia's planning system.

A major reform in the Bill is the creation of a new 'Planning and Design Code'. This will require a completely new approach to the drafting, presentation and interpretation of zoning rules. The Code will set out a comprehensive suite of planning rules for development assessment purposes. The Code will function as the single point of reference for development assessment in South Australia. It will include a new 'use of class' concept that will not trigger the requirement to obtain an approval for minor 'change of use' matters such as prescribed changes in crops.

The Bill also introduces streamlined assessment pathways that will better tailor effort to match the scale, impact and risk of a proposed development.

A major element of the new planning system will be the delivery of planning information and services through online platforms including a central planning website – to be known as the 'SA planning portal'. Members of the public will be able to lawfully rely on information published on the portal. This will enable users to produce site specific or area wide maps, including zoning maps.

The Bill provides for the State to be divided into 'planning regions'. The main purpose of a planning region is to define the area for regional plans over which collaborative arrangements may be established for planning and other relevant service delivery or program areas.

The Bill proposes one or more 'environment and food production areas' within the Greater Adelaide region in order to:

- protect rural, landscape and environmental areas from urban encroachment
- encourage consolidation within the existing urban footprint and renewal of existing urban areas
- ensure that any expansion of the urban footprint is made transparently and based on agreed evidence

This reflects the statutory character preservation protections already in place for the Barossa Valley and McLaren Vale discussed below.

Further information can be found at http://dpti.sa.gov.au/planning/planning_reform

Barossa Valley and McLaren Vale Character Preservation Laws

The *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012* became operational on 18 January 2013. This legislation provides that the special character of the two districts is recognised, protected and enhanced while providing for the economic, physical and social wellbeing of the communities within the districts.

The special character of each district has been considered in terms of five character values identified in the legislation:

- rural and natural landscape and visual amenity of the district
- heritage attributes of the district
- built form of the townships as they relate to the district
- viticultural, agricultural and associated industries of the district
- scenic and tourism attributes of the district.

Other Policy Initiatives

Land Use

The South Australian Government is working with Local Councils on a number of policy initiatives on matters relevant to the Productivity Commission's Inquiry. This work is being progressed in a regional context via a collaborative rezoning process with relevant Councils. The following key issues are being addressed:

- Valuing adding within primary production zones to provide for local economic incentives / opportunities (e.g. small scale tourist development in association with wineries, farms, heritage places, shops associated with farm-gate scales, along with light industries and service industries in association with the processing, packaging and distribution of primary produce).
- Second dwellings (ancillary dwellings) on an allotment.
- Opportunities for boundary re-alignments to better cluster allotments in single ownership to maintain larger allotments for primary production purposes.
- Amend restricted uses in primary production zones to consider greater flexibility and opportunity for compatible uses.
- Interface issues within areas of primary production.

South Australian Planning Policy Library

The State's current planning policies are contained in the South Australian Planning Policy Library² (the Library). The Library encourages best practice policy application and a consistent development plan format across the State. It also makes it easier and faster for Councils to update their development plans and for government agencies to assess proposed amendments.

The Library provides standard policy modules that are applied for agricultural areas across the State. The library is reviewed and updated, most recently by the '*Review of the South Australian Planning Policy Library and Associated Matters in Relation to Primary Industries and the Use / Development of Rural Land*' in 2014.

Building Standards - Farm Building Specification

South Australia has taken the lead on red tape reduction for farm buildings. South Australia was the first State to provide a suite of building concessions for farm buildings in Minister's Specification SA H3.2 – concessions and additional requirements for farm buildings (July 2004).

The Specification was reviewed in 2015, resulting in additional concessions and significant savings to the primary production sector. However, there remain differing building code requirements for farm buildings in many jurisdictions across Australia.

Given the importance of the agricultural sector to the State and National economy, the Australian Government and relevant boards and committees should play a greater role in driving greater consistency in this area.

Pastoral leases

Rangelands pastoral properties make up of 40 percent of land in South Australia. Covering an area of approximately 410,000 square kilometres, there are 218 pastoral properties comprised of 320 individual pastoral leases managed under the *Pastoral Land Management and Conservation Act 1989* (the Pastoral Act) on a 42-year rolling lease arrangement and assessed in conjunction with a 14-year renewal schedule.

Pastoral leases give pastoralists access to Crown land for the main purpose of raising livestock and developing related infrastructure. Pastoral leases also require that the land be managed sustainably to prevent further degradation and, where possible, to improve the condition of the land.

These areas are of great economic value but also have important cultural and ecological significance and are home to many rare and endangered native species. As a result, it is important that pastoral properties are monitored for compliance with lease conditions every two to five years and that lease extensions are based on assessments of land condition.

² See <http://www.sa.gov.au/topics/housing-property-and-land/industry-professionals/planning-professionals/south-australia-s-planning-policies>

The legislation provides for the power to approve transfers, mortgages, encumbrances, easements and sub-leases of pastoral leases provided they are being transferred and sub-leased for pastoral or associated purposes. Pastoral lessees are required to seek approval from the Pastoral Board of South Australia³ to use the land for other purposes such as tourism or conservation.

The Pastoral Act does not limit access to pastoral land for mining, petroleum, or defence purposes. The Act was amended in 2015 to facilitate greater access to land for renewable energy projects.

Native title

In those pastoral areas where native title exists, it has been the State's policy to encourage and facilitate the negotiation of Indigenous Land Use Agreements (ILUAs) between the pastoralist and the native title holder. This encourages relationship building and cooperative effort and provides a blueprint for management that is enduring. The negotiations also provide the opportunity for a discussion about economic benefits for Aboriginal people (e.g. joint tourism activities).

Environmental Protection

Overview

Ecological sustainability is the most basic necessity to safeguard the communities that rely on the productive capacity of our land and water resources. An integrated approach to natural resources management is therefore vital to achieving sustainable development and provides the foundation for sustainable, productive and competitive agriculture.

There are a number of pieces of legislation that are intended to manage the environment and ecosystem to generate positive long term outcomes for both individuals and the broader community.

South Australia is striving for a whole-of-landscape approach that draws together organisations and individuals across a diversity of sectors, taking into account the links within and between natural systems, and the interaction of economic, social and environmental factors that influence decision making.

We are strengthening the working relationship between the agricultural sector and the NRM sector. This provides a basis for ensuring the NRM systems are relevant to agriculture, effective on the ground and deliver value for money.

³ The Pastoral Board is established under the Pastoral Act

Managing the resource base

The South Australian Government's contributions to the Australian Government's Agricultural Competitiveness White Paper process recognised the importance of our natural resources and the fundamental role they play in underpinning sustainable, competitive and productive agriculture. This is also reflected in the State's *Natural Resources Management Act 2004* (the NRM Act).

"Secure Production" is one of the three themes in South Australia's 'Premium Food and Wine Produced in our Clean Environment and Exported to the World' economic priority, reflecting a collective commitment to respond effectively to the major risks to future food and wine production, including environmental factors and food safety. The South Australian Government also recognises it is vital standards are appropriate, and complied with, in order to improve market confidence, maintain and grow market access and provide a competitive point of difference.

The agriculture sector, NRM sector and the Government are working together through a series of actions addressing the following themes:

- A common purpose and understanding and interpretation of NRM.
- Strong relationships, understanding and communication between the parties.
- A functioning, well designed NRM system.

The NRM Act was developed to deliver a strategic, integrated approach to the sustainable management and use of the State's natural resources (our soil, water resources, geological features and landscapes, native vegetation, native animals and other native organisms and ecosystems) and protection of those resources. It provides for a transparent, consultative, robust and effective structure to manage and protect the economic, social and environmental values of those natural resources.

The NRM Act provides for the establishment of NRM regions and for the management of those regions by NRM Boards⁴. Regional NRM Boards help implement the State NRM Plan and other NRM related strategies. The State NRM Plan provides a guiding framework for each regional plan. NRM Boards plan and report, by means of a regional NRM Plan, and business and implementation plans. These plans influence investment and how natural resources are managed in the region. The role of regional NRM Boards is to:

- Lead regional natural resource management by listening to communities, developing regional NRM Plans, advising government and preparing innovative solutions.
- Connect government and communities to regional natural resource management issues.

⁴ There are currently eight NRM Boards: Alinytjara Wilurara, SA Arid Lands, Eyre Peninsula, Northern & Yorke, Adelaide and Mount Lofty Ranges, Kangaroo Island, SA Murray-Darling Basin and South East.

- Work with government and communities to establish effective partnerships in delivery of NRM programs and projects.

The NRM Act is based fundamentally on the concept of ecologically sustainable development (ESD). Much of the NRM Act sets out the planning, consultation and governance arrangements to deliver this strategic, integrated approach. However, the objects of the NRM Act make it clear that the use and management of natural resources supports sustainable primary and other economic production systems with particular reference to the value of agriculture and mining activities to the economy of the State. In addition, the Minister has functions that support primary production in relation to developing and applying policies relating to the control of animals and plants to protect public health and safety, the natural environment, and primary production within the State and to recognise the need to enhance and support sustainable primary and other economic production systems.

Management of Land

Under the NRM Act, landowners have a general duty to carry out proper land management practices or activities on their land. Where there is actual or potential degradation of land and there has been or is likely to be a breach of the general statutory duty on account of those land management practices, a landowner is encouraged and, if necessary, compelled to take corrective action.

The NRM Act combined the *Soil Conservation and Land Care Act 1989*, the *Water Resources Act 1997* and the *Animal and Plant Control (Agricultural Protection and other Purposes) Act 1986* to achieve integrated management of the State's natural resources.

The 'Management of land' component of the NRM Act reinforces the sustainable management and 'duty of care' aspect of managing the soil resource. It is consistent with the values of most land managers regarding the way they aim to manage and improve their land hence it does not pose an unrealistic burden on land managers.

Control of Pest Animals and Plants

Government intervention in pest animal and plant control via legislation becomes necessary where individual landowners are unable or unwilling to control the pest animal or plant to a level that prevents its spread and has negative impacts on surrounding landowners and the wider community.

If a pest is already widespread or not spreading at all, then the decision on whether to control a pest animal or plant and what level of control to apply is solely the responsibility of the individual landowner. If, however, a pest is spreading from a property to other areas where it is causing negative impacts, the Minister may 'declare' provisions that require a landowner to take action to destroy or control an animal or plant.

Government intervention through declaration of a species may also be required to stop the sale, movement, keeping or release of an animal or plant that is a potential threat to natural systems, communities and industry. These threats include potential economic, social and environmental

impacts. The declaration of a pest animal or plant provides valuable information for the agricultural sector, based on evidence and scientific research, while effective enforcement of the relevant provisions in the NRM Act assists in minimising impacts from declared pest species.

Native vegetation

Regulation of Native Vegetation is primarily covered by the *Native Vegetation Act 1991*. This legislation was introduced to address over clearance of native vegetation in South Australia. Under this legislation, clearance of native vegetation can occur for specified purposes as detailed in the regulations or for other purposes by way of an application. The Act was recently amended to update various provisions, after consultation with stakeholders including the farming sector, and introduced changes in relation to Significant Environmental Benefits (SEBs).

A SEB is intended to compensate for the loss of vegetation from approved clearance activities. This is achieved by managing and enhancing native vegetation elsewhere with the intent of providing a net environmental gain over and above the impact of the clearance. The reforms create a new market for environmental conservation. This will enable individuals or entities to work directly with those that are clearing native vegetation in order to provide the required SEB. Landholders can be assigned credit for their native vegetation and can then 'trade' this credit to those entities undertaking clearance. This trade would lead to some financial and management gain for the landholder.

The existing regulations have been subject to review over the past 12 months, with the aim of reducing the regulatory burden for landholders and to establishing a stronger focus on the value of native vegetation in achieving biodiversity conservation priorities. This includes the use of a risk based approach to streamline low risk, minor activities. These initiatives will improve flexibility for the agricultural sector where they need to remove vegetation for production outcomes. The review is ongoing with revised regulations the consequential outcome.

Clearance approval for fire management is done through either the regulations or, if it is beyond the amount allowed in the regulations, then through the approval of the Country Fire Service of South Australia.

Climate change

The *Climate Change and Greenhouse Emissions Reduction Act 2007* provides for the Minister to promote action, develop, adopt or promote policies and to consider and promote business opportunities. This can be done on a sector basis. South Australia's *Climate Change Strategy 2015* encourages and supports regional approaches and several regions have completed Regional Adaptation Strategies. It is intended to guide action by government agencies, local government, non-government organisations, business and the community.

In South Australia, NRM Boards are responding on a (NRM) regional basis with policy, leadership and information relating to factors such as fire management, building resilience in economic, social and environmental capital, maintenance of ecosystem services and pest management. In this regard, the South Australian Governments view is:

- Regulation should be sufficiently flexible to support diversification of farming enterprises and changing on-farm systems. This is essential for securing the viability of the farming sector in response to climate change as well as market-based pressures.
- Regulation which creates disincentives to adaptation should be avoided. Policies and programs need to be carefully designed to ensure they enable the agricultural sector to adjust to current and future climate change in a timely manner.
- Regulation should support the continued provision of information regarding future climate (such as is available through Climate Change in Australia, the Goyder Institute for Water Research and the South Australian Research and Development Institute) with appropriate extension services provided to farming communities to inform on farm decision making and future planning. This will support informed decision making at the enterprise level in a deregulated market environment.

Opportunity to sequester carbon

It has been demonstrated that there is a significant opportunity to sequester carbon through the best use of soil modification techniques in broad acre cropping zones of Australia. Existing and proposed Emissions Reduction Fund (ERF) sequestration of soil carbon methodologies (Sequestering Carbon in Soil in Grazing Systems and Sequestration of Carbon in Soil Using Modelled Abatement Estimates) do not enable primary producers to verify and sell carbon credits generated by soil modification in broadacre cropping systems.

There is sufficient demonstration of the sequestration potential to justify the development of a measurement based methodology. It is the view of the South Australian Government that the Australia Government should develop an ERF methodology that incorporates the existing Carbon Farming Initiative soil carbon sampling design, soil sampling and analysis method and guidelines to enable primary producers to verify and sell carbon credits generated from broadacre cropping systems.

Sequestration of carbon also occurs in natural systems, particularly native vegetation. Consideration should be given to ERF methodology in respect to a variety of native vegetation systems, including arid lands vegetation.

Environmental Protection and Biodiversity Conservation Act

The South Australian and Australian Governments have agreed to give a high priority to measures designed to reduce environmental red-tape.

On 24 October 2014, an assessment bilateral agreement under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) between the South Australian and Australian Governments came into operation. The agreement provides for a single environmental assessment process under the Australian Government's 'One-Stop-Shop' to meet the regulatory requirements of both South Australia and the Commonwealth.

The agreement covers environmental assessment of proposed developments in South Australia that could impact on a matter of National Environmental Significance (NES). The agreement

accredits South Australian environmental assessment processes under the *Mining Act 1971* and the *Development Act 1993* only where those processes meet the strict environmental protection requirements of the EPBC Act. This will reduce the regulatory burden on business by streamlining the environmental assessment process while maintaining high environmental standards.

Compliance

Regulatory activity related to environmental protection undertaken by South Australian Government agencies is designed to meet the economic, social and environmental needs of the State. Compliance activity is subject to a compliance code and provides a spectrum from guidance through to enforcement. The majority of environmental compliance occurs in the guide, inform and enable categories.

Compliance supports primary producers over the short and long term, maintaining and/ or improving the viability, sustainability and profitability of individual businesses and the agricultural sector as a whole. Additionally, it facilitates the South Australian Government's economic priorities by supporting market access, growth and flexibility, and providing a foundation for South Australia's reputation as a supplier of premium food and wine from our clean environment.

Legislative instruments are either contemporary, have been reviewed recently to ensure currency or are under review. In the interests of efficiency and effectiveness, there is a focus on local (NRM region) service delivery tailored to the needs and requirements of the regions. The advantages of conducting business via the internet are recognised and opportunities are being taken where possible.

Access to technologies and chemicals

Genetically modified (GM) crops

The Commonwealth's *Gene Technology Act 2000* established a national co-operative regulatory scheme for gene technology. The national scheme allows State Governments to regulate GM crops only where there are risks to markets and trade, as these are not addressed as part of the national regulatory process that deals with human health and environmental impacts of genetically modified organisms.

South Australia's *Genetically Modified Crops Management Act 2004* (GM Act) gives effect to the State Government's commitment to ensure the cultivation of genetically modified food crops is regulated in South Australia in line with the national scheme.

South Australia's GM Act allows the Minister to confer exemptions enabling research and development to be pursued.

Five other jurisdictions have similar Acts in place. However, with the exception of Tasmania, they have removed their restrictions on growing GM canola. South Australia has retained its prohibition on the cultivation of GM food crops including canola to ensure that South Australia can retain its position in the global marketplace and retain one of the attributes that underpin the State's economic priority Premium Food and Wine Produced in our Clean Environment and Exported to the World.

The South Australian legislation gives certainty to our markets and confidence to our industry so that they can invest in market development activities provided by the State's non-GM position.

The Spring 2015 edition of the Australian Farm Policy Journal⁵ article on Asian consumer attitudes to GM food is of note in relation to our markets. In this article the authors concluded amongst other things that "GM crops and food could seriously 'taint' the brand position of non-GM Australian produce in Asian markets".

Other international developments include major international retailers increasingly seeking non-GM products. This includes Whole Foods, a major natural and organic food retailer in North America which recently committed to selling only non-GM foods by 2018 and 'Trader Joe's' and 'Target' in the United States announcing similar plans for their private label products.

Agricultural and veterinary (AgVet) chemicals

The South Australian Government is broadly supportive of the approach to refining and delivering the current AgVet regulatory reform initiatives proposed in several recent Australian Government discussion papers and has actively provided input into this process. The South Australian Government believes these initiatives have the potential to improve AgVet regulation arrangements proportionate to risk and further major AgVet reforms are not required until these current reforms can be implemented and evaluated.

Further consideration of additional costs that may be incurred by primary producers and state control of use enforcement agencies is recommended however in relation to changes proposed to labelling requirements for spray drift by the Australian Pesticides and Veterinary Medicines Authority.

In relation to recognition of tests and standards developed overseas, the National Industrial Chemicals Notification and Assessment Scheme, in its approach to assessing the human health and environmental impacts of previously unassessed industrial chemicals through the Inventory Multi-tiered Assessment and Prioritisation, has demonstrated that non-Australian data can be used to characterise and classify the risks of chemicals. Furthermore, the Department of Health through its Scheduling arrangements (pursuant to the Commonwealth's *Therapeutic Goods Act*) also demonstrates the use of non-Australian data. Of importance however is the evaluation of the methodology by which the data was captured, or the basis on which a test was performed, or the underlying assumptions of any standard utilised.

⁵ Review of Asian Consumer Attitudes Towards GM Food and Implications for Agricultural Technology Development in Australia. Woodhead et al. Farm Policy Journal; Vol.12; No.3; Spring 2015

Any approach that uses non-Australian data should provide consistency in the development of inclusion and exclusion criteria for the purposes of selecting relevant non-Australian tests and standards. Exposure patterns and vulnerabilities do differ across the world, as do the robustness (e.g. relevancy, accuracy, reproducibility etc.) of the tests performed, which requires the development of methods to choose whose tests and standards will be used.

Consideration should be given to establishing a mechanism for example through a national standing committee or similar technical group to undertake the setting of such guidance or criteria for selecting non-Australian tests and standards.

Water

Management of water resources

The requirement for the fair and effective management and protection of water resources is of recognised critical importance in South Australia. Landowners and land occupiers have rights and obligations in relation to the holding and use of water, and activities related to water resources on or adjoining their land. South Australia's NRM Act provides a structure of licensing and permit provisions, together with some more general obligations and activity restrictions, by which this can be achieved.

Those rights and obligations are managed through licences and authorisations, permits and conditions and notices, which allow and control activities related to the use of water and to water resources.

Water trading, access and information provision

The South Australian Government is committed to transparent, efficient and effective water markets and has been working with the Murray-Darling Basin Authority (MDBA) to implement the Basin Plan trade rules which came into effect in July 2014. This has assisted in the removal of remaining trade restrictions among other things.

Water brokers – There is no new evidence to suggest that greater regulation is required. The South Australian Government believes that a voluntary intermediary accreditation scheme would be the appropriate action rather than an industry-specific regulation.

Water market speculators – Some stakeholders have suggested that the functioning of the water market might be improved if speculators were banned from participating in the market. The South Australian Government's view is that this would not be consistent with freeing up the water market from restrictions.

Groundwater markets – Guidelines to further develop the MDB groundwater market are currently being finalised by the MDBA and Basin jurisdictions and is expected to be released in early 2016.

Water recovery targets – Alongside the water recovery schemes, Commonwealth investment in irrigation efficiency and infrastructure is providing opportunities to support agricultural productivity and is enabling farmers to adapt in ways that would not otherwise exist.

Management arrangements in the MDB – There are a number of tiers of government involved but the roles are well defined and Basin jurisdictions work collaboratively to implement water management across the Basin. Management arrangements were relatively recently reformed and all parties are required to exercise functions and powers in a manner consistent with the Basin Plan and the *Water Act 2007* (Cth).

The South Australian Government supports work to improve the quality and transparency of information that is available to the water trade market and to minimise the regulatory reporting requirements on businesses. An interagency review of water information reporting burdens led by the Bureau of Meteorology was undertaken in 2015 and was tasked with looking at options to reduce the regulatory burden (the report is not yet released). In 2016, the MDBA and Basin jurisdictions will review information disclosure and the management of water announcements under the Basin Plan water trading rules to make further improvements.

Transport

Regulations

As a general rule, transport regulations (with the exception of the *Road Safety Remuneration Act 2012* (Commonwealth)) prior to and after the establishment of the Heavy Vehicle National Law (HVNL) and the National Heavy Vehicle Regulator (NHVR) were harmonised with other regulations relating to agriculture. This includes recognising the unique operations of agricultural transport through mass and dimension exemptions, movement of (special purpose) agricultural equipment and machinery, grain handling, livestock loading and movement of specific agricultural commodities during harvest seasons.

Notwithstanding the establishment of the HVNL, there remain differences between jurisdictions regarding the regulation of agricultural transport. While in many cases these differences respond to prevailing circumstances rather than as a result of regulatory failure opportunities to increase harmonisation should be considered.

The South Australian 90 day project *A Modern Transport System for Agriculture*, carried out jointly by Primary Industries and Regions South Australia (PIRSA), the Department of Planning, Transport & Infrastructure and Primary Producers SA (PPSA) highlighted the need to not only review regulations relating to the movement of agricultural equipment and machinery to accommodate the emergence of larger, higher productivity plant and equipment requiring access to public roads, but also the need to better educate primary producers and the agricultural sector about the HVNL and transport regulations to allow them to make more informed choices of new plant and equipment.

With the exception of the Road Safety Remuneration Act, there is little duplication or inconsistency of transport regulations with other regulations. However, there are many interfaces between transport regulations and accreditation requirements (such as National Heavy Vehicle Accreditation, Intelligent Access Program, Performance Based Standards and Fatigue Management) with other regulations which form the 'regulatory environment' for agricultural transport.

The NHVR, National Transport Commission (NTC) and transport agencies are progressively reviewing and improving the jurisdiction specific transport regulations (including those relating to agriculture) operating on an interim basis under the HVNL or as derogations from the HVNL, in order to achieve a truly national regulatory regime as intended by the Transport and Infrastructure Council and COAG. The process requires extensive consultation with jurisdictions and all stakeholders and the necessary staff and financial resources to achieve the outcomes sought on a timely basis.

Road access decision making

The access decision-making process adopted by State, Territory and Local Government road managers is continually improving as the operations of the NHVR and the HVNL matures. Access management system development, which is in progress, and better tools for road managers, such as national guidelines, will assist. There is also the opportunity, through the NHVR and State/Territory transport agencies, to improve collaboration between road managers and road authorities in decision making to ensure a more consistent network approach. Ongoing work to encourage road managers to move away from providing access for agricultural transport by way of specific journey permits, in favour of establishing either pre-approved routes comprising the supply chain, or formally gazetted road networks for particular heavy vehicle types and/or commodities to provide "as of right" access.

Rail, port & air freight

Just as with other sectors of the economy, there is scope to reduce the regulatory burden by partners in the agricultural transport supply chain adopting an integrated logistics framework (e.g. "paddock to plate") and, as such, there is need for Australian Government leadership to coordinate a national response to reducing regulatory burden across all sectors of the supply chain.

Interface between the Australian Government and State based access regimes - Third Party Access

The range of legislation relating to third party access to infrastructure services creates potential duplication/gaps between the various regulatory regimes. This has the potential to impact on port operators and terminal owners, costs which are passed on to importers/exporters of agricultural products, particularly grains.

The Mandatory Port Access Code of Conduct for Export Wheat Terminals only covers the export of wheat – not barley or pulses. This creates a regulatory environment where wheat exports could be managed under a different regime/system than other agricultural exports using

the same facilities (e.g. at-port storage and loading equipment). Whilst in practice, the system for wheat exports is being applied for other bulk agricultural commodities, it would seem that there is no regulatory compulsion for this to occur.

This situation adds to compliance costs for port operators/terminal owners, can result in delays, and potentially increase complexity around how port operators allocate port capacity between commodities.

Partly as a result of the above, and also due to the interface between the state and Australian Government regulation, it is possible that a single export bulk wheat supply chain could be subject to multiple access regimes and dispute resolution processes, none of which have regard for the others. It is also worth noting that upcountry bulk storage and handling facilities are not covered by any access regulation. Non-bulk exports are also not currently covered by access regimes.

As a result of the above, there may be merit in investigating the benefits of a single regulatory framework applying across supply chains (i.e. not modally based) or investigating how interfaces between different regulatory regimes could be harmonised and/or subject to a single access request process.

Consideration should also be given to improving the consistency across jurisdictions in applying regulation of port access for grain exporters. Regulation should be applied where costs are outweighed by benefits, based on desired intended outcome for the regulation.

Liner shipping

The potential amendments to the *Competition and Consumer Act 2010* (as recommended by the Harper Review), which provides exemption from competition provisions for liner services (i.e. the ability to form consortia) has a potentially negative impact on access to container shipping services for agricultural importers and exporters. South Australia is more vulnerable than most states to losing services arising from this recommendation, because of the State's geographic location and small market.

It should also be noted that:

- Liner services are a global business, as is the formation of consortia. It is, therefore, unclear what the benefits are of amending this Act, in the context that virtually all other international jurisdictions appear to have legislation enabling the formation of conferences. This could make Australia unattractive to global shipping players.
- Further to the above consideration should be given not only to competition between shipping lines but also to competition between shipping agents (i.e. those who book the cargo). In some instances, agencies are vertically integrated with lines, but this is not always the case.
- The consequence of these issues could be fewer services, less competition and higher shipping rates which is not the Government's stated intent.

Coastal shipping

The potential benefits arising from a liberalisation of coastal shipping/cabotage arrangements that might accrue to farm businesses is difficult to quantify, particularly in South Australia, where the majority (by volume) of agricultural produce is exported internationally (i.e. grain), rather than to interstate markets. Nonetheless, the following points are of relevance:

- All things being equal, and where commercially advantageous, international shipping lines are likely to be able to offer coastal freight services at a lower cost than domestically based shipping services, in part, due to their ability to provide such services at marginal cost.
- International shipping containers are based on the ISO Pallet, two of which can fit side by side in an ISO container. The domestic pallet (commonly called the 'CHEP' pallet) is not compatible with ISO shipping containers, and two are unable to fit side by side in an international container. This results in:
 - The need to re-palletise product to/from ISO pallets on either end of the shipping voyage; or
 - Consignors/consignees accepting a less than fully efficient loading on each container (approximately 50% reduction).

Comparative line-haul savings (versus road and rail) would be moderated by these costs.

- Over the medium-long term, coastal shipping policy has been shifting which has created difficulties in stimulating long term commercial arrangements and investment by international and domestic shipping sectors as well as port facility providers that would be desirable in increasing the competitiveness of coastal shipping under either regime.

Animal welfare

Overview

Legislative responsibility for animal welfare rests almost entirely with the States and Territories, with different levels of compliance and enforcement across jurisdictions. The system would benefit from greater leadership by the Australian Government in areas beyond livestock export and quarantine.

As ethical food and credence values are becoming more important in export markets, ethical, national animal welfare standards are of strategic value in export markets meeting expectations for "animal welfare friendly" products.

The Australian Animal Welfare Strategy (AAWS), which is no longer funded, sought to achieve consistent, modern and practical animal welfare standards in all animal industries across all Australian jurisdictions. It is noteworthy that AAWS was supported by all stakeholders, including jurisdictions, animal industries and major animal welfare organisations.

Reinstating support and sponsorship for the AAWS would lead to more timely, achievable, stakeholder supported, and scientifically based animal welfare standards across Australia. The

International Organisation for Animal Health (OIE) considered the AAWS such a successful strategy in developing modern animal welfare standards that it used the strategy and key Australian staff as a template for the current development of the Regional Animal Welfare Strategy.

Inconsistency of animal welfare regulations in different jurisdictions also impacts the competitiveness of the livestock industries. The current program of converting livestock welfare codes of practice into animal welfare standards and guidelines, and their subsequent endorsement by the Agriculture Ministers Forum intends to achieve consistent regulation of the welfare standards.

Reform priorities

Animal welfare reform needs to be supported not only by community and regulators, but also by the affected livestock industries. A regulatory reform program was established in 2006 with development of nationally consistent animal welfare standards for pigs, followed in later years by animal welfare standards for livestock transport, cattle production and sheep production.

The Australian Government's development of a new regulatory scheme for livestock export (ESCAS) has successfully delivered higher animal welfare standards in importing countries. ESCAS is supported as an effective means of improving and protecting animal welfare of exported Australian livestock, while also improving welfare training of overseas livestock handlers.

The livestock industries were important drivers in achieving consistent regulation and enforcement across jurisdictions, on the basis that jurisdictional inconsistencies have been anti-competitive. A recent example is the definition of 'free range' livestock production methods in relation to poultry, egg and pork production. It is important to achieve national consistency as producers in jurisdictions that have lower standards applied will have a competitive advantaged. Consumers seek consistency and reliability of supply, which may also be affected by inconsistent regulation.

Nationally consistent animal welfare standards and guidelines also offer major benefits by providing certainty to industry to obtain finance and make medium to long term capital investments. It is also important that endorsed national standards are taken up into regulation, consistently and compliance activities are coordinated and comparable. National leadership would facilitate this.

Biosecurity

Australia has an enviable pest and disease free status compared to many of our trading partners. Our approach to biosecurity risks has reduced the costs to business through improved productivity in avoiding crop or animal losses from new pest and disease incursions and improved market access to high value, biosecurity sensitive export markets.

A recent analysis of the value of Australia's biosecurity system at the farm gate found that farm profits may be lower because of direct production losses; additional expenditures on control measures and damage mitigation and; export market losses if an effective biosecurity system was not in place (ABARES 2015). This requires a balance and trade-off between costs of the system and returns to growers and the broader community.

It is the view of the South Australian Government that the national biosecurity system is working well with benefits of the system significantly outweighing the costs. However, there are a number of improvements that should be pursued to address restrictive regulation in some areas that constrain the overall community benefits.

The greatest biosecurity regulatory burden on agricultural business in Australia is through the Interstate Verification Certification Arrangements (IVCA) and Interstate Certification Arrangements (ICA). These regulatory regimes implemented by each jurisdiction under their respective Plant Health legislation has created a labyrinth of regulation, processes and procedures which restrict and in some cases stifles interstate trade in horticulture produce.

Some jurisdictions have implemented restrictive regulation that prohibits some commodities being traded between states (e.g. potatoes). It is imperative that such restrictions are based on sound evidence supporting the need to manage biosecurity risks only. Restrictive trade arrangements between states which have no biosecurity basis send the wrong message to our international trading partners and significantly increase costs to growers and to consumers.

National leadership is needed to take action to resolve interstate trading that may be in excess of the 'Acceptable Level of Protection' (ALOP) under the *Biosecurity Act 2015*.

Consumer-related regulation

Food safety

The Issues Paper states that within scope are the three levels of government impacting farm businesses, in addition to regulations imposed along the supply chain.

State and Territory Food Acts, based on the Model Food Provisions to facilitate consistency, do not generally cover 'farm businesses'. In South Australia, primary producers are not captured by the *Food Act 2001* unless they are contract packing or substantially transforming primary produce.

Similarly the food safety standards in Chapter 3 of the Australia New Zealand Food Standards Code (the Code) do not apply to 'farm businesses'.

To facilitate consistent food safety regulation of primary food production, Chapter 4 of the Code includes nationally agreed Primary Production and Processing Standards (PPPSs) for sectors that pose a high food safety risk.

The Primary Production and Processing Standards of Chapter 4 of the Code cover the following sectors: Seafood; Poultry; Meat; Dairy Products; Eggs and Egg Product and; Sprouts. Each PPPS defines the activities in the sector it covers that need to meet food safety requirements and what those food safety requirements are.

These standards are incorporated into state and territory Primary (food) Production legislation by each jurisdiction developing its own regulations. State and Territory Primary (food) Production Acts are jurisdiction specific, and therefore, not consistent. In South Australia, farming or agriculture activities are captured by the *Primary Produce (Food Safety Schemes) Act* where it is identified that a food safety risk that must be managed such as in the PPPS of the Code.

Risks Based Food Safety Standards

In relation to farm businesses:

South Australia considers the PPPS that are in place are proportionate to risk, for two reasons:

- There is not a PPPS for every agricultural/farming sector because the PPPSs only apply to a sector which has been agreed nationally to pose a high food safety risk.
- PPPSs apply different levels of regulatory requirements to different activities within a sector based on the risk that each activity poses to food safety. For example:
 - the seafood PPPS imposes minimal outcomes-based food safety requirements on fishing activities which pose a low food safety risk, but place a higher level of requirement on the production, processing and manufacturing of bivalve molluscs which pose a high food safety risk.
 - The meat PPPS imposes minimal outcomes-based food safety requirements on farming activities which pose a low food safety risk but place a higher level of requirement on the production of ready to eat meat products (e.g. ham and mettwurst).

Each new or varied PPPS undergoes a risk based assessment including a regulatory impact statement by Food Standards Australia New Zealand (FSANZ) on behalf of the states and territories. In addition, one or more rounds of public consultation are conducted and the draft regulation is endorsed by the Australia and New Zealand Ministerial on Forum Food Regulation (comprising representatives of all Australian jurisdiction and New Zealand). This process takes into account the costs and benefits of the proposed standard, the impacts on trade as well as public health issues.

In relation to the supply chain:

Some of the PPPSs also cover parts of the supply chain, such as transportation, supplying and processing, when these activities are considered to pose a high food safety risk.

For example:

- the seafood PPPS covers holding, transportation, and processing
- the meat PPPS covers the production of ready to eat meat products
- the dairy PPPS covers the production of milk and other dairy products

The majority of businesses along the supply chain – such as suppliers, transporters, wholesalers, retailers and food service businesses (restaurants, cafes and delis) – are not covered by the PPPS but are food businesses captured by the Food Act. Chapter 3 of the Code applies to these business and the requirements are also based on risk.

In summary, food safety standards are proportionate to the risks they are designed to address. The Australia New Zealand Food Standards Code process is a professional and rigorous framework for assessing food safety risks. Standards are now largely outcome-based, allowing a risk assessment based approach which can be tailored to individual sectors and businesses.

Best practice in dealing with food safety regulation

Noting that each jurisdiction has different mechanisms for the application of the food safety regulations, the system works very well within South Australia.

Regulators in this state: SA Health, PIRSA/Dairy Authority of SA (DASA), the Australian Government and local government` operate under agreements and memoranda of understanding in relation to roles and their responsibilities. These are in place to avoid duplication and regulatory gaps and thereby ensure food safety risks are managed without unnecessary burden on businesses.

The Primary Industry Food Safety Program is delivered by Biosecurity SA, a Division within PIRSA, which has a close working relationship with the Food and Controlled Drugs Branch and the Communicable Disease Control Branch within SA Health.

The South Australian Dairy Authority is a cost effective and efficient model for regulation of the dairy industry in South Australia. The Authority's focus is solely on milk production, to ensure all dairy products are of an acceptable standard for human consumption. The relationship between producers and the Authority is good as advice and audits assist businesses in avoiding or mitigating food safety issues that may significantly impact on their businesses.

South Australia also has primary industry food safety regulations where high risk products, such as shellfish, eggs, sprouts and fermented meats are audited by Biosecurity SA to ensure these products enter the human food chain in a condition suitable for human consumption. Where food safety audits of other food businesses are required, they are conducted by local government/ SA Health.

For food business inspections in South Australia, SA Health has developed a state-wide food business risk classification and inspection frequency system based on inherent risk, which sets initial, maximum and minimum inspection frequencies.

SA Health's system has four classifications based on the national food safety risk profiling framework⁶.

A Memorandum of Understanding between the Minister for Health and South Australia's Local Government Association promulgates the following roles and responsibilities of SA Health and local councils under the Food Act.

Recognition of private sector standards

The Issues Paper (page 19) suggests that there may be potential to recognise private sector standards for audits conducted by government agencies. In response to this, it should be noted that the national food standards contained in the Code are primarily based on food safety risk and are developed using a single transparent process including government, industry and consumer review. Industry standards are highly variable, brand specific and based primarily on brand protection. As an example, there are several different industry standards for horticulture alone.

Many of these requirements are based on quality as well as food safety, and the food safety requirements do not always align with the Code and they are inconsistent between supermarket chains. Therefore the opposite should be considered, ie that the private sector recognises audits conducted by food safety regulators.

Differences between state and territories

In relation to farming businesses:

Minimum standards are required nationally, where PPPS are included in the Code. However, the PPPS may be implemented differently in each jurisdiction.

This difference was highlighted when the Eggs and Egg Product Standard was introduced. For example, South Australia required all eggs to be stamped as per the requirements of the Standards, whereas NSW and Victoria allowed for an exemption on egg stamping for 2 years. Egg producers in NSW and Victoria who sold eggs into SA had to implement the egg stamping, regardless of the exemption as this was a requirement for all eggs sold in SA. Additionally, Woolworths and Coles required egg stamping as they use the Code as a minimum for their own industry food safety schemes.

Food safety auditing

It is the view of the South Australian Government that food safety audits do not create an unnecessary regulatory burden. There are some high risk foods, such as shellfish, eggs, dairy, poultry and fermented meats and without appropriate regulation, the incidence of food safety breaches leading to severe health problems in the community would escalate dramatically and

⁶ See <http://www.health.gov.au/internet/main/publishing.nsf/Content/risk-profiling-framework>

Australia's international reputation as a producer of safe food severely damaged. The impact of food safety breaches and food poisoning impacts is well documented as is the risks in countries with poor food safety regulation.

However, where it is possible to do so, food safety audits between the Commonwealth Government and State/Territory authorities could be streamlined further, so that one audit covers the regulatory requirements of all the legislation. This is already done to a great degree in the red meat industry and export food facilities. All opportunities to reduce the burden on businesses by reducing multiple audits should be considered.

In South Australia, PIRSA's Food Safety Program carefully assesses a sector to ensure that food safety audits are effective. Every effort is made to minimise the regulatory burden of intervention. For example low risk sectors receive less auditing than high risk sectors. In sectors such as vertically integrated poultry production, a system has been adopted which recognises third party food safety audits on farms, monitoring audit outcomes and status reports.

It should be noted that the major cost of audits for food production businesses is not the legislated audits, but audits by major food service businesses and retailers. These companies do not accept any other audits and their auditors often generate significant travel and accommodation costs. As stated above 'industry' audits do not audit to the Australian Food Standards Code and can be far more onerous on producers.

The small number of regulatory food safety audits in the agriculture sector, which are only for very specific commodities, are conducted by PIRSA and the Australian Government's Department of Agriculture and Water Resources (DAWR). The sector is audited according to risk, and therefore some commodities will require audits of on farm activities and the primary food production activities. For example: Salmonella management on farm for the production of eggs, in addition to packing and further processing eggs.

As also indicated above, in South Australia, PIRSA administers Primary Produce (Food Safety Schemes) Regulations based on the PPPS in the Code, or where industry has sought to be regulated to facilitate market access.

PIRSA and DAWR also have a MOU to reduce regulatory burden where a business may be captured under Primary Production (Food Safety Schemes) regulations and Export Orders.

The risk classification system used in South Australia for food business ensures that inspection frequencies are commensurate with risk and performance of the business. In most cases this results in an annual inspection for a business that is operating well.

It should be noted that an inspection is a review of compliance where no records or food safety management (HACCP) system is required whereas an audit is a systematic review of a business' food safety management system that requires records and often includes a HACCP component. SA Health and Local council audits are only undertaken for business that provide food to vulnerable populations due to the high food safety risk for these groups.

Food labelling

Country of Origin Labelling

The South Australian Government supports the Australian Government's commitment to improving the Country of Origin Labelling (CoOL) Framework for food. Closing the existing loophole that allows some food to be labelled as 'packaged in' Australia rather than providing the true country of origin (where it was grown or made) is welcomed, as is simplifying the 'made in' claim for all products (not just food) by clarifying what substantial transformation means.

Developing the system in consultation with industry and through a regulatory impact assessment is important in balancing potential costs to industry with helping consumers to make informed decisions about the food they buy.

Consumer use of food labels

This matter was extensively explored in 2009, with significant community input, by the independent review of food labelling law and policy commissioned by the Australia and New Zealand Ministerial Forum on Food Regulation [then the Legislative and Governance Forum on Food Regulation (the Forum)] at the request of COAG. The independent panel's 2011 report – *Labelling Logic* – is available at: www.foodlabellingreview.gov.au

All jurisdictions contributed to the Forum's response, which is available at <http://www.health.gov.au/internet/main/publishing.nsf/Content/foodsecretariat-food-labelling.htm>

SA Health has twice asked South Australians, via Health Omnibus surveys in 2005 and 2010, about the most important information they look for on food labels.

On the first occasion,

- For 80% of respondents, the most important information they looked for on food labels was the date mark, or best before date
- Following this, 50% looked at the nutrition information panel
- 43% looked at the country of origin and the same proportion looked for the ingredient list
- Just 5% of the total sample did not read the labelling at all.

Five years later,

- 63% said the most important information they looked for was the date mark (best before, use by)
- 41% said country of origin labelling
- 33% cited the nutrition information panel (NIP) and claims about nutrition equally as important
- 12% of males said they did not look at labels, compared with 6% of females.

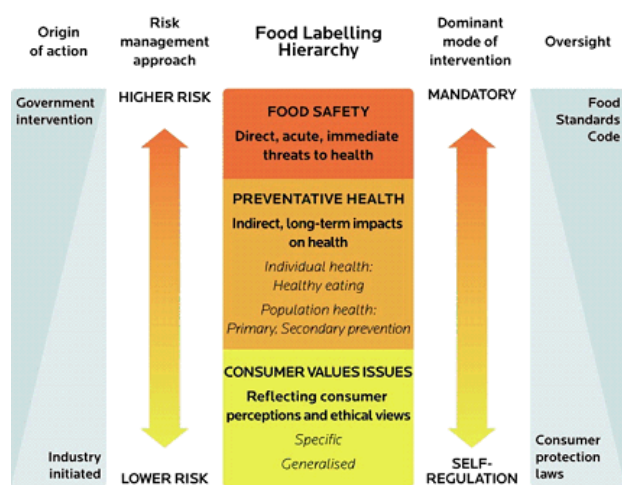
Labelling standards

All labelling included in food legislation is stipulated by the national Standards, and is therefore consistent. Mandatory labelling is based on food safety risk and provision of appropriate recall information in the event of a food safety incident or contamination. Labelling of packaged and unpackaged foods has different requirements but necessary information such as allergen declarations is required to be available to the consumer.

Food labelling required by food legislation is the responsibility of individual state agencies across jurisdictions. However, a nationally consistent approach is supported by the Food Regulation Standing Committee (FRSC) (policy and strategic issues) and the Implementation Sub Committee for Food Regulation (ISFR) (enforcement and compliance issues)⁷. Labelling requirements for packaged and unpackaged food are set out in the Code.

Compliance monitoring and evaluation occurs in line with a framework agreed by ISFR and FRSC.⁸

Labelling Logic recommended a Food Labelling Hierarchy. The Labelling Hierarchy (see below) was supported by the Legislative and Governance Forum on Food Regulation, now the Australia New Zealand Ministerial Forum on Food Regulation (the Forum) in December 2011 and incorporated into the Overarching Strategic Statement for the food regulation system⁹.



Mandatory labelling reflects food safety criteria and recall information. It includes ingredient and allergen labelling, date marking and manufacturing details. Consumer value based labelling such as 'organic' and 'healthy' are voluntary and included for market differentiation.

Food safety issues such as allergens and information for recall purposes are considered essential to protect public health. These have been agreed to by the Forum and are included in the top tier of the Labelling Hierarchy.

Consumer 'value' labelling such as country of origin, ethical production methods and health claim should be truthful but not necessarily mandated.

⁷ FRSC convenes under the auspices of the Ministerial Forum on Food Regulation. ISFR, which consist of senior officials from regulating agencies, reports to FRSC.

⁸ See: <http://www.health.gov.au/internet/main/publishing.nsf/Content/foodsecretariat-isc-publications.htm>

⁹ See <http://www.commcarelink.health.gov.au/internet/main/publishing.nsf/Content/foodsecretariat-strategic-statement>

Competition Regulation

The South Australian Government, in its submission to the Australian Government's Competition Policy Review, agreed that governments should generally avoid policy and legislation that restricts competition, although such an outcome may sometimes be justified if the benefits of the restriction to the community as a whole outweigh the costs, and the social objectives of such a policy or legislation may only be achieved by restricting competition.

A mandated Code of Conduct for Grain Export Port Terminal Operators (the Code) commenced on 30 September 2014. The Code rightfully deals with regional monopolies, allaying concerns of primary producers and traders about misuse of market power and unconscionable conduct by the grain export port terminal operators where competition does not exist (as determined by the ACCC).

In its response to the draft report of the panel that review Australia's competition policy (the Harper Review) the South Australian Government noted, with concern, that recent decisions to exempt some Western Australian ports from the application of the Code may disadvantage South Australian grain growers.

Investment

Foreign direct investment has played an important part in the development of Australian agriculture and agribusiness –it tends to introduce new technologies and approaches, therefore improving productivity, resulting in a larger impact, per dollar invested, on economic growth than domestic investment.

A 2012 Port Jackson Partners/ANZ Bank report estimated that between 2012 and 2050, around \$600 billion in additional capital would be needed to generate growth and profitability in Australian agriculture. According to this report, an extra \$400 billion would be needed to support farm turnover for the next generation of farmers over this period. We cannot rely exclusively on domestic investors to provide this capital. However, foreign investment should not be unfettered.

In its December 2014 response to the Australian Government's Agricultural Competitiveness Green paper, the South Australian Government supported "improving the transparency of foreign investment" because it recognises the need for foreign investment to support agriculture into the future, along with the risks associated with foreign investment and public concerns over the extent of foreign ownership of agricultural land, water and agribusiness.

During 2015, the Australian Government introduced a number of new measures to improve the transparency of foreign investment in Australian agriculture. These new measures have the support of the South Australian Government.

Debt mediation

A voluntary approach to farm debt mediation (FDM) has prevailed in South Australia since 1997. The South Australian Farm Finance Strategy encourages early identification of problems, and good communication, to ensure parties work together to improve farm viability and resolve financial problems.

In addition, under the *Small Business Commissioner Act 2011*, the South Australian Government has given the Small Business Commissioner the task of developing prescribed industry codes of conduct under the *Fair Trading Act 1987*.

The first of these codes prepared by the Small Business Commissioner and Deputy Small Business Commissioner was the *Fair Trading (Farming Industry Dispute Resolution Code) Regulations 2013* – known as the Farming Industry Dispute Resolution Code¹⁰.

During the process of developing this Code, the Australian Bankers Association acknowledged FDM as a tool for negotiating an agreement that is preferable to relying on legal rights under a mortgage contract, rather than a tool for resolving a dispute.

However, the ABA was concerned that the proposed Code would result in a layer of dispute resolution additional to processes already in place and may make it less attractive for banks to provide additional funds to customers facing or likely to face financial difficulty.

The development of industry codes is in line with the Government's intention to create a fairer and more competitive small business sector. The Code – a national first – gives South Australian farming participants the ability to access an enforceable mandatory dispute resolution framework to assist in dealing with a wide range of business to business disputes, as well as business to Local or State Government.

A consistent national approach, whether legislated or not, could be useful in situations such as where farmers or their finance institutions operate across state borders.

The South Australian Government is not convinced a legislated approach will necessarily generate better FDM outcomes for farmers than the voluntary arrangements that currently exist in South Australia. It is also concerned about the additional administrative burdens for government and additional costs for industry that a legislated approach may generate.

¹⁰ http://www.sasbc.sa.gov.au/industry_codes/farming_industry_dispute_resolution_code