

Submission to the Productivity Commission Inquiry into the Regulation of Australian Agriculture.

February 2016

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CPC

OUR TEAM IS PROUD
TO CONNECT THE BEST
AUSTRALIAN BEEF
TO THE WORLD

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Regulation of Australian Agriculture
Productivity Commission
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Dear Commissioners,

Consolidated Pastoral Company (CPC) welcomes the opportunity to make a submission to the Productivity Commission's inquiry into the impact of regulations on international competitiveness and productivity in Australian agriculture.

CPC is Australia's largest private beef producer operating a portfolio of 20 stations, with capacity for more than 380,000 cattle, across 6.0 million hectares that is owned or leased by the company.

CPC also holds an 80 per cent interest in a joint venture that owns and operates two feedlots in Indonesia.

CPC is owned by Terra Firma, one of Europe's leading private equity firms that acquired the business in 2009.

CPC operates through the industry's four main supply chains: live exports into Asia, processed product for export, processed product to supply the domestic market and we also supply cattle to the Australian feedlot industry.

Our company sees significant opportunities to increase beef production in Australia in response to the rising demand for protein from Asia.

We are keenly interested in building on our already significant investment if the right policy settings are in place to encourage sustainable development and exploit these emerging markets.

CPC believes that the basic test for the expansion of beef production in Australia will be its ability to attract the necessary private capital; both domestic and foreign. That will only happen if there is an adequate return on that investment. The keys to achieving that outcome are lifting productivity and increasing the sector's international competitiveness.

The development of an efficient regulatory regime that facilitates the development of a commercially, environmentally and socially sustainable beef sector has a key role to play.

Yours sincerely,

Troy Setter
Chief Executive Officer
Consolidated Pastoral Company

29 February 2016

Overview and Summary

Consolidated Pastoral Company (CPC) proposed to the Government that the Treasurer ask the Productivity Commission (PC) to undertake an inquiry into the regulatory burden on the agriculture sector in submissions to both the Agricultural Competitiveness and the Developing Northern Australia White Paper processes.

The company therefore welcomes the opportunity to make a submission to the inquiry.

The company operates 20 stations across Western Australia, the Northern Territory and Queensland requiring it to comply with regulatory systems imposed at a local, state, territory and national level.

The company also operates in all beef supply chains with a major focus on live exports.

This export focus can only be sustained if CPC, and the beef industry generally, continues to improve its competitiveness in the international market place. Failure to improve the industry's competitiveness could see key markets lost to our competitors particularly South America.

The wide range of laws, regulations and codes, and the complexity of some of these regulatory systems, across not only three tiers of Government but also between the three northern jurisdictions of Western Australia, the Northern Territory and Queensland unnecessarily adds to the cost of doing business for northern beef producers.

As the PC has noted in a number of other important reports, such as *Local Government as a Regulator* and *Regulator Engagement with Small Business*, it is often the conduct and resourcing of regulators, rather than the structure regulation itself, that creates the greatest regulatory burdens. Given these issues are well known to the PC, we shall only make passing reference to them in this submission. That said, if in consulting on its Draft Report the PC does wish to explore these, we will be happy to respond to any request for further information and views.

Following a summary of the key issues of concern to CPC, and an overview of CPC, the industry and its challenges, the remainder of this submission is divided into two parts:

- Part One which covers the impact on CPC of regulations that apply across the industry such as investment rules, land tenure arrangements, native title, environmental protection, land clearing, transport, agricultural and veterinary chemicals, animal welfare and heritage protection; and
- Part Two which covers those regulations imposed on beef industry supply chains that impact directly and indirectly on CPC.

A number of appendices are also provided.

Key areas of regulatory impact on CPC

Foreign Investment

CPC believes that foreign investment has a key role to play in growing agricultural production in Australia.

However, it is CPC's view that the Government's new policy will discourage foreign investment. This will have a negative impact on the sector's productivity growth and its economic performance.

The PC should make the new foreign investment rules a priority area of this inquiry.

Further, CPC proposes that the PC recommend an independent review of the foreign investment regime be undertaken during 2017 to determine its impact on investment in agriculture and the economy more broadly.

Land Tenure

In CPC's view the land use conditions imposed by pastoral leases are not aligned with modern land management systems. They limit the ability of pastoralists to realise the full commercial potential of the land in an ecologically sustainable manner without and offsetting public benefit.

CPC believes landholders are best equipped to make decisions on what land use activities will deliver the highest returns and Governments are best equipped to develop and enforce land use standards to ensure its environmental values are protected and its ecological function is preserved.

CPC proposes that the PC consider the option of a clear separation of responsibilities in relation to pastoral leases.

The Environment

CPC has built into its business model strategies to protect the environmental values of the 6.0 million hectares it owns or leases; a public good contribution for which it does not receive or expect any public recompense.

CPC is required to comply with, or take account of, at least 46 separate environmental Acts and regulations across four legal jurisdictions in the management of its properties.

The reforms to land tenure arrangements suggested by CPC above could also improve the environmental management of pastoral land through a rationalisation of the maze of environmental laws and their incorporation into the proposed sustainable land use standards.

CPC proposes that the rationalisation of the environmental regulatory frameworks governments impose on pastoral leases be a priority area of inquiry by the PC.

Land Clearing

As the largest private landholder in Australia, CPC sees the strategic clearing of vegetation on pastoral leases, in an ecologically responsible way, as a key land management tool to improve productivity.

CPC proposes that the current native vegetation regulations in the northern jurisdictions be reviewed and recast to ensure the biodiversity of a region is protected, to enable the sustainable use of the land for pastoral and related purposes, and to provide policy consistency and administrative efficiency across northern Australia.

CPC proposes that the incorporation of native vegetation rules into the sustainable land use standards described above be included in PC's recommendations.

Native Title

In CPC's direct experience, Native Title can co-exist with non-indigenous property rights. CPC has worked productively with indigenous groups under provisions of the *Native Title Act* and achieved, from CPC's prospective, what have been satisfactory outcomes.

While CPC has worked within the current regulatory framework for settling Native Title claims the time taken to reach an agreement, even with goodwill on the part of both parties, has been excessive.

In CPC's view that has not been in the interest of the Traditional Owners or the company. CPC proposes that the PC examine options for reducing the time taken to settle claims.

Transport

Transport is a major cost to CPC and the northern beef industry generally.

CPC has to manage a significant transport task moving up to 180,000 cattle annually both within its network of properties and through the various supply chains.

To improve the regulatory regime and reduce costs, for long haul road transport CPC proposes that the PC recommend that Federal Minister for Infrastructure and Regional Development engage with the Transport Ministers in Western Australia and the Northern Territory with the aim of having these jurisdictions adopt the national scheme.

Further, CPC proposes provision be made within the national scheme to accommodate the special circumstances of the northern Australian long haul livestock freight task.

Agricultural and Veterinary Chemicals

The use of agricultural and veterinary chemicals is an important part of the production process in northern Australia: they play a key role in growing productivity, controlling pests and diseases and protecting the natural environment through such activities as weed control.

The efficiency and effectiveness of the process of assessment and registration of Agricultural and Veterinary chemicals should therefore be a key focus of this inquiry and a priority for government.

CPC believes there is considerable scope to streamline the current registration procedures to get chemicals into commercial use in a more timely fashion.

CPC proposes that the PC examine the regulatory regime around the assessment, approval and registration of agricultural and veterinary chemicals with a particular focus on the changes required to deliver the reforms the Government has committed to in the Agricultural Competitiveness White Paper.

Biosecurity

CPC supports the wide-ranging reforms to Australia's biosecurity regulatory regime progressed by the current and previous Governments. In our view, this is a good example of regulatory reform where century old prescriptive legislation has been replaced with an Act that provides for the efficient administration of the regime.

CPC supports the finalisation of the Government's biosecurity reform process to strengthen further the national system to protect Australia's unique biosecurity status.

However, CPC recommends that work on reducing related industry charges through more efficient administration must continue to be a priority for the Government.

Animal Welfare

CPC operates its business in line with both the Model Codes of Practice (MCOP) that sit under the Animal Welfare Strategy, and all relevant state and territory legislation.

These Codes have served as guides for our employees who are responsible for the welfare and husbandry of some 380,000 cattle and 760 horses. An effective animal welfare regime should be science based and focused on the welfare of the animal not on the political objectives of the animal rights lobby.

Climate Change

CPC supports government action at an international and national level to respond to climate change.

At a farm level, CPC supports the NFF view that building resilience into property management practices is the most effective way of mitigating the impact of climate change on agricultural production.

CPC agrees that the strategies to build resilience into farm enterprises must focus on increasing water use efficiency, maintaining adequate vegetation coverage, protecting biodiversity, sustainable grazing practices, soil preservation, adequate on farm infrastructure, managing waste, use of renewable energy and diversification of land use.

CPC believes the development and application of sustainable land use standards described above will enable the pastoral industry to respond to a changing climate.

Employer Obligations

CPC employs around 200 staff in the northern dry season and around 90 during the wet season (thus making it an SME) in accordance with a number of laws and regulations that cover, among other matters, conditions of employment, occupational health and safety and workers' compensation.

CPC is required to comply with no less than 54 separate Acts, related regulations and codes in managing its staff.

CPC proposes that the PC develop options to reduce the massive regulatory burden, and associated costs, on companies, such as CPC, that operate in a number of jurisdictions.

Livestock Exports

CPC supports the ongoing reform of the ESCAS scheme. That process should focus on transiting from a direct regulation system to a co-regulation model – government and industry working together – supported by a strong system of penalties where breaches occur.

Such an approach would allow responsible companies to get on with business and enable the Government to respond quickly and effectively to breaches.

In this regard CPC supports the work being undertaken by the livestock industry to develop a new, more comprehensive animal welfare program - the Livestock Global Assurance Program (LGAP).

Beef Processing for Export

There are at least 40 different Acts and regulations that impact on beef exports and this legislation has been the subject of a review by the Department of Agriculture and Water Resources.

The Department website states that the review identified opportunities to improve the efficiency and flexibility of the system.

The website states the next stage in the review process is making improvements to the legislation, including a simpler legislative structure that is easy to understand and administer, a broader range of monitoring, investigation and enforcement powers to deal with breaches or acts of non-compliance and clearer provisions for the performance of verification activities (such as audits and inspections) across the supply chain.

CPC recommends that the PC take into consideration the review undertaken by the department and assess these review outcomes against the definition of a good regulation in the PC Discussion Paper.

Feedlots

While the cattle feedlot sector is required to comply with, or take into account, a wide range of local, state and territory regulations its governance is broadly defined by a national code of conduct – The National Environmental Code of Practice.

Under this regime the performance of the industry against the standards set by the code is the subject of an annual audit.

CPC recommends that the PC assess the potential of the national industry code that governs the operation of feedlot across Australia as a model for wider application.

Introduction

In submissions to both the Agricultural Competitiveness and the Developing Northern Australia White Paper processes, Consolidated Pastoral Company (CPC) proposed to the Government that the Treasurer ask the Productivity Commission (PC) to undertake an inquiry into the regulatory burden on the agriculture sector.

We focussed on the PC for two reasons.

Firstly, the Commission is an independent agency operating under its own legislation; further, the Commission reports formally through the Treasurer to the Australian Parliament.

Secondly, the Commission's legislative 'instructions' include:

- Improve the productivity and performance of the economy;
- Reduce unnecessary regulation;
- Encourage the development of efficient and internationally competitive Australian industries; and
- Ensure Australian industry develops in ecologically sustainable ways.

These are the policy objectives CPC was seeking to advance in its submissions to both White Paper processes and is again promoting in this submission.

Consolidated Pastoral Company

CPC is owned by Terra Firma, one of Europe's leading private equity firms, which acquired the business in 2009.

CPC operates 20 stations in Northern Australia that cover some 5.7 million hectares across the north west of Western Australia, the Northern Territory and Queensland. This requires CPC to comply with a wide range of regulations imposed by local governments, the Governments of Western Australia, the Northern Territory, Queensland and the Federal Government.

The company therefore provides a useful case study into the impact the current regulatory system has on the efficiency of the beef industry generally and the northern Australian beef industry in particular.

CPC is divided into northern and southern operations.

The northern operations cover properties in the Northern Territory and Western Australia including Newcastle Waters, Ucharonidge, Dungowan, Manbulloo, Humbert River, Auvergne, Kirkimbie, Bunda, Argyle Downs, Newry and Carlton Hill Station.

The focus for this group of stations is predominantly live export and breeding high quality Brahman cross cattle for the CPC Queensland backgrounding operations. Up to 20,000

weaners are transferred into Queensland each year and 34,000 export cattle are produced annually from these properties.

The breeding herd consists of 112,500 breeders, predominantly Brahman, driven by the Newcastle Waters Brahman Stud which infuses world quality genetics through the northern herds. Up to 1,200 purebred Brahman bulls are transferred from the Newcastle Waters Stud to the northern group each year.

Mustering generally commences in March of each year, at the end of the wet season. The season runs through until the start of the following wet season, in around November.

The southern operations include all of the properties located in Queensland. The northern Queensland stations are predominantly breeding properties, while the properties located in southern and western Queensland are used for backgrounding and fattening. The breeding operation includes approximately 22,000 Brahmans and 8,000 crossbred breeders.

The fattening and backgrounding operations handle up to 65,000 cattle annually, usually taking in 20,000 head from the northern group and fattening these for up to two years before turning off to market.

Markets targeted by this group include the Jap ox and domestic trade, either finished on grass or as feeders through Queensland feedlots.

The mustering season on the southern group is not as defined as in the north, with operations continuing year round.

There are three stud herds operated on CPC's southern properties.

Allawah is an elite Brahman Stud located near Biloela. This stud breeds bulls for the multiplier stud herd at Newcastle Waters, from which CPC's commercial bull requirements are supplied. CPC's Angus and Charolais stud herds are based at Isis Downs in Central Western Queensland. These studs distribute bulls for use within the company's commercial cross-breeding programs.

The Northern Beef Industry

The Northern beef herd accounts for around 70 per cent of the Australian industry and 80 per cent of the live export trade. The industry is a cornerstone of the northern economy and a major contributor to the national economy.

However, northern Australia beef producers are required to operate in a complex regulatory environment.

There are a large number of regulations relating to foreign investment rules, land tenure arrangements, native title, environmental protection, land clearing, transport, agricultural and veterinary chemicals, animal welfare and heritage protection that impact on how northern producers run their businesses.

These regulations are in addition to the laws and regulations relating to industrial relations, occupational health and safety, taxation - and even regulated standards for workers' accommodation that producers must comply with as employers.

Northern producers are required to comply with regulations imposed at a local, state, territory and national level. Many producers must also comply with separate regulatory regimes imposed by the three northern jurisdictions; Western Australia, the Northern Territory and Queensland. Further, this regulatory complexity is compounded where different rules are applied in different jurisdictions to address the same policy objective. That is, the northern beef industry must manage both a horizontal and a vertical system of laws, regulations and codes.

Further, the northern pastoral industry is the custodian of around 40 per cent of the Australian land mass. While the industry generates an economic return from the land it does not, and does not expect, to receive a financial return for its work in preserving the environmental and in many cases cultural values of this land on behalf of the broader community.

Growing the Beef Industry

According to a report on the Northern beef industry prepared in 2012 by the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) - Northern Beef Industry: Assessment of Risks and Opportunities - scale and intensity of operation and productivity are two of many factors influencing growth in the beef industry.¹

The report stated that productivity growth would be driven by larger farms with bigger land holdings and greater access to capital. In line with ABARES analysis of the importance of the scale of production in driving productivity CPC has continued to expand its operations in

¹ Trish Gleeson, Peter Martin and Clay Mifsud. Northern Australian Beef Industry: Assessment of risks and opportunities. Australian Bureau of Agricultural and Resource Economics and Sciences, Northern Beef Industry. Canberra 2012. Page 60.

both Australia and Indonesia. (See below) Access to capital to grow its business has been and continues to be, a focus for CPC.

In relation to productivity, CPC notes evidence from ABARES to the Rural and Regional Affairs and Transport Legislation Committee Estimates hearing on 9 February 2016.

Mr Gooday: “So in talking about the productivity issues, there is some thinking to do about how we spend our R&D money, not only the quantum but making sure that the systems are as effective as possible and that the incentives within that R&D chain align with what we want to get out of it. That means making sure that there are as few impediments to people doing research into the sorts of activities that are likely to lead to productivity growth as possible; the whole GM debate fits into that. Maximising productivity capacity.

There is a whole bunch of, I suppose, you would call them 'cross-economy issues' that we need to get a hold of—inconsistencies across states, for example, in terms of regulations for transport, OHS issues, and a whole range of things.”²

CPC strongly supports the view that well-aligned policy incentives to encourage adoption of new technologies and practices are required to enhance the rate of farm innovation. That includes a properly resourced research and development regime, effective extension services and, where required, policies and regulations that do not unnecessarily restrict the range of management practices available to producers.

CPC therefore proposes that the PC focus its inquiry on those regulations that have an adverse effect on the drivers of growth in beef production and prioritise its recommendations accordingly.

Export Focus

Like most of Australia’s major agricultural industries beef production is focused largely on key export markets such as the United States, Japan, Korea, the European Union and for the live trade Indonesia and Vietnam.

Around 65 per cent of beef production in Australia is destined for the export market. CPC exports up to 85 percent of production either directly as live cattle or boxed meat.

This export focus can only be sustained if the industry continues to improve its competitiveness in the international market place. Failure to do so could see key markets lost to our competitors particularly South American countries such as Brazil, Argentina and Uruguay.

Therefore, regulations and regulators that add to the complexity and cost of doing business internationally should also be a priority area for this inquiry.

² Mr Peter Gooday, Assistant Secretary, Farm Analysis and Biosecurity Branch ABARES. Additional Estimates hearings. Rural and Regional Affairs and Transport Legislation Committee, Hansard 9 February 2016, page 108.

Regulation

The definition

CPC notes that the PC Discussion Paper defines 'Regulation' as any laws (Acts of Parliament, regulations and other legislative instruments) or other government rules (such as codes of conduct and standards which are known as quasi-regulation) that influence or control the way people and businesses behave.

In line with the PC's definition of regulation this submission focuses on identifying regulations that impact directly or indirectly on CPC. In our view some of these regulations impose an *unnecessary* regulatory burden and have a material impact on the company's operation. This can be compounded by poorly resourced, motivated and managed regulatory staff.

Unpacking the costs of regulation and 'unnecessary burdens'

CPC notes the statement in the Discussion Paper that regulations by necessity impose costs on those affected. However, "where the objectives of regulation are sound, and it is effectively designed and implemented, the benefits of regulation would be expected to outweigh the costs for the community as a whole. Good regulation also achieves its stated policy objectives at least cost to the community."

A key question, posed in the Discussion Paper that CPC seeks to answer in this submission is "whether a regulation, and the way it is implemented, imposes an *unnecessary* regulatory burden. An unnecessary regulatory burden would exist if it was possible to achieve the objective of the regulation at a lower cost (compliance and administrative costs and lower distortion to the economy)."

CPC also notes the PC list of unnecessary regulations that can arise include:

- excessive regulatory coverage;
- redundant regulations;
- excessive reporting or recording requirements;
- heavy handed regulators; and
- inconsistent or overlapping reporting requirements, either within government or across jurisdictions.

The financial burden of regulations

CPC notes the reference in the submission to this inquiry from Agforce to the 2013 estimate of the Federal Department of Agriculture that its portfolio imposed an annual compliance cost of between \$547 and \$709 million.

CPC also notes that the National Farmers Federation (NFF) commissioned a report published in 2007, also referred to in the Agforce submission that found the annual cost (1998 to 2006) for southern Australian livestock and mixed farms was in the order of \$22,500. According to the report that represented 18 days spent in compliance activities and 14 per cent of net farm profit. CPC considers these an underestimate of the regulatory costs imposed on northern beef producers.

The cumulative burden of Regulations.

As Commissioners will see from this submission while many regulations pass the Productivity Commission tests the cumulative burden of National, state, territory and local government regulations is overwhelming.

CPC's research suggests the number of Acts, regulations and codes with which the company must comply, or take account of, is in the order of 327.

Part One: Industry-Wide Regulatory Issues

1. Foreign Investment

CPC believes that foreign investment will continue to play a key role in the development of Australian agriculture in line with the ABARES report referred to earlier in this submission.

Australia's foreign investment regime was complex prior to the most recent changes. The new system and the new fees structure, is dramatically more complex and in CPC's direct experience actively discouraging foreign investment; particularly from China.

The package of Bills and the related regulations, introduced into the Parliament to implement these changes included:

Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015 – 126 pages.

Foreign Acquisitions and Takeovers Fees Imposition Bill 2015 – 14 pages.

Register of Foreign Ownership of Agricultural Land Bill 2015 – 18 pages.

Explanatory Memorandum to the above package of Bills – 265 pages.

Exposure Draft of the Foreign Acquisitions and Takeovers Regulation 2015 – 58 pages.

Exposure Draft of the Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 – 6 pages.

Clearly, these changes were not designed to simplify the administration of the foreign investment regime.

CPC supports the statement in the PC Discussion Paper that Australia's attractiveness to both domestic and foreign investors is partly influenced by the regulatory environment in place.

Australia's foreign investment framework comprises the *Foreign Acquisitions and Takeovers Act 1975* and associated regulations, and a foreign investment policy.

The new system includes:

- reductions to screening thresholds for investments in agricultural land and agribusiness,
- the introduction of a national foreign investment register for agricultural land,
- the introduction of a national foreign investment register for water entitlements, and
- the introduction of schedule of application fees.

Thresholds for Foreign Investment Review Board (FIRB) review of foreign investment in agriculture.

The following table shows the wide range of thresholds for foreign investment in agricultural land and agribusinesses under the foreign investment regime which came into operation on 1 December 2015.

FIRB SCREENING THRESHOLDS

TYPE OF INVESTOR	TYPE OF INVESTMENT			
	AGRICULTURAL LAND	AGRIBUSINESS	BUSINESS IN SENSITIVE SECTORS	BUSINESS IN NON-SENSITIVE SECTORS
<i>Foreign government investors</i>	\$0	\$0	\$0	\$0
<i>Private investors from:</i>				
United States, New Zealand, Chile	\$1,094 million	\$1,094 million	\$252 million	\$1,094 million
Japan, Korea, China	\$15 million (cumulative)	\$55 million	\$252 million	\$1,094 million
Singapore, Thailand	\$50 million	\$55 million	\$252 million	\$252 million
Rest of world	\$15 million (cumulative)	\$55 million	\$252 million	\$252 million

In CPC's view this highlights the lack of policy logic behind the new system.

The illogical nature of these new rules is also highlighted by the fact that if CPC raises capital from domestic sources to further grow its business it will still be required to apply to FIRB for approval to invest those Australian sourced funds in an Australian based enterprise.

Further, the cumulative rule of the new system means that beyond the \$15 million trigger for FIRB intervention CPC is required to make a formal application for any further investment by its business unless an Exemption Certificate for Foreign Persons under S.58 of the *Foreign Acquisitions and Takeovers Act 1975* has been obtained.

Application of the Productivity Commission tests.

Excessive regulatory coverage

A threshold of a cumulative value of \$15 million for agricultural land as a trigger for FIRB approval means that very small investment above \$15 million can trigger a full FIRB assessment process.

This is an extreme example of a regulation with excessive cover.

Excessive reporting and recording.

The new thresholds mean the administrative and legal processes triggered through a formal FIRB approval process are excessive for what might be a very small investment once the threshold is exceeded.

Inconsistent and overlapping requirements.

This new foreign investment regime is inconsistent with the existing rules.

Investors from Chile, the United States and New Zealand have a threshold of \$1,094 million before the FIRB approval is triggered.

If an investor comes from Singapore or Thailand the threshold is \$50 million.

The thresholds in these two categories is not cumulative.

However, if an investor comes from China, South Korea or Japan, or indeed even Ireland or the United Kingdom, the threshold is just \$15 million and cumulative.

The cost of the regulatory burden

There are a range of direct and indirect costs associated with the FIRB regulatory system. They include administrative costs, legal and other professional costs and the time of senior management required to advance an application through FIRB. A more streamlined approach to submission and assessment of FIRB applications would give more confidence for buyers and sellers of Australian land. The purchase of Agricultural land by foreign investors through auction is very difficult due to the FIRB process.

Proposed Action

It is the view of CPC that the new policy will discourage foreign investment from key source countries such as China. This will have a negative impact on productivity growth and the economic performance of Australian agriculture.

CPC therefore proposes that the PC recommend these foreign investment rules be subjected to an independent review during 2017 to ensure their impact on the economy is understood and amendments implemented in a timely fashion if required.

The Productivity Commission would be well placed to undertake such a review.

If the anecdotal evidence to date suggesting foreign capital is being lost to Australia is correct the economic cost of pursuing what was clearly a political objective could be considered by the Australian community unacceptably high.

Register of Foreign Ownership of Agricultural Land

The *Register of Foreign Ownership of Agricultural Land Act 2015* and the provisions of the *Foreign Acquisitions and Takeovers Legislation Amendment Act 2015* commenced on 1 December 2015.

CPC was required to register each parcel of land held by the company separately to comply with this legislation. The legal structure of land tenure in Queensland in particular made this task administratively onerous. For example, the registration of the Isis Downs aggregation required the separate registration of no less than thirty-five parcels of land.

Under current rules the details of registered owner of every parcel of land - companies now owned by CPC - must also be registered.

Across its portfolio of 20 stations CPC was required to provide details of 138 separate parcels of land and 6 separate entities to comply with the Australian Taxation Office (ATO) rules; the agency responsible for operating the register.

The original online process for registration was not compatible with the reporting requirements imposed on CPC. CPC was required to make four contacts with the ATO before the problems with system were resolved.

Further, Western Australia, the Northern Territory and Queensland provided data in different formats adding to the administrative complexity of the task.

Queensland already has a foreign land register in place legislation – *the Foreign ownership of Land Register 1988 and related regulations* – the requirements of which are far less onerous.

Under this system CPC is required to complete Form 25 “Foreign Ownership” (similar to a transfer form), identifying any relevant foreign ownership property transaction.

Details of any foreign ownership properties at the time of introduction of the Act were required to be provided to the Qld Titles Registry within 12 months of commencement of the Act.

There are no fees and it is a simple one-page form which just requires identification of the property details and details of the property purchaser/transferee.

The introduction of the national scheme means there is a double handling of data.

Application of the Productivity Commission tests.

Excessive regulatory coverage

The requirements of the register of foreign ownership of agricultural land are excessive. This regulation covers more activity than is warranted or required to meet the government's policy objective.

Excessive reporting and recording

As currently structured this regulation has excessive reporting or recording requirements.

Inconsistent or overlapping requirements

In Queensland CPC is also required to provide the state government with details of its land holdings and ownership structure for a separate Queensland register of foreign ownership.

That is, CPC must comply with two reporting requirements generating extra and unnecessary work for our business.

The cost of the regulatory burden

Complying with this new regulation required a significant commitment of time by two staff over a week to:

- determine exactly what data was required,
- work with three different state and territory agencies to locate and extract the data,
- standardise the data which varied across the jurisdictions,
- work with the ATO to better align its reporting requirements with its recording procedures, and
- submit the data which as stated above under the national rules required the provision of details of 138 separate parcels of land and five companies.

The cost to the company of complying with this regulation was substantial and unnecessary.

The complexity of this regulation would also impose unnecessary administrative costs in the ATO relative to the policy objective of the register.

Suggested Action.

While CPC accepts there is a community interest in the level of foreign ownership of agricultural land in our view that interest could be satisfied in a

simplified and more cost effective way. That might involve the registration of CPC's land holdings as operating properties. That would mean the registration of the 20 properties not 138 separate land parcels as it required under the current rules.

COAG should agree that all jurisdictions will use a single Foreign Ownership Register maintained by the Commonwealth for whatever foreign investment regulation they wish to undertake.

The new fee structure for agriculture and agribusiness

According the Government's budget papers, the introduction of application fees on all real estate, business and agricultural foreign investment proposals from 1 December 2015 is estimated to raise \$735.0 million in revenue over the forward estimates period.³

The budget papers provide for funding of \$19.7 million to Treasury and \$47.5 million to the ATO over four years to administer this scheme. A further \$15.8 million has been allocated to Treasury to establish an office in Sydney although it is not clear the extent to which this office will support Treasury activities other than foreign investment review.

The new charges imposed by the Government are not linked to the cost of administering the scheme. Rather they are a financial penalty, or a tax, that only applies to foreign investors.

This direct cost or tax is in addition to the range of administrative and other costs incurred by applicants seeking to navigate through the FIRB approval process.

According to analysis by the Federal Labor Party the new regime contains 22 different screening thresholds and categories, which vary depending on the value and type of investment and on the nationality of the investor and 33 different levels and categories of application fees, ranging from \$5,000 to \$100,000.

Applying the Productivity Commission tests

Excessive regulatory coverage

The charges applying to this new regime are excessive and appear well to be above the cost of administering the new scheme. They are a tax on foreign investors; a penalty for offering to inject much needed capital into Australian agriculture.

Rather than reducing unnecessary red tape the schedule of charges dramatically increases the administrative burden on foreign entities seeking to invest. This is an example of what the PC describes as heavy handed regulation.

Excessive reporting and recording

³ Commonwealth Government. Budget Measures: Budget Paper No.2 2015-16. Page 31.

In addition to the actual cost of fees imposed in foreign investors the new regime is administratively complex; it contains 33 different levels and categories of application fees, ranging from \$5,000 to \$100,000 that must be navigated.

Inconsistent and overlapping requirements.

As described above the application of the Government's foreign investment policy is inconsistent with different thresholds for FIRB approval applying to different countries.

The cost of the regulatory burden

The direct cost of this new system to businesses is identified in the fees schedule.

Further, there are now significant legal and administrative costs associated with getting FIRB approval to invest in this country.

CPC has been advised that since the introduction of the new rules there have been significant delays in the processing of applications. CPC notes that FIRB are very aware of their shortcomings and are very apologetic; the problem lies with the policy not the personnel.

It is clear that FIRB has not been adequately resourced to managing the flood of applications triggered by the new system. The PC has previously drawn attention to the consequences of under resourcing regulators in its reports on *Regulator Engagement with Small Business* and *Local Government as a Regulator*.

CPC understands that nearly all applications have been given extensions; CPC's has an application before FIRB that has received 2 extensions.

The increase in the number of formal assessments by FIRB will also flow on to a significant increase in the volume of applications that must be considered by the Treasurer.

It must be noted that after working through this lengthy, complex and expensive process a company seeking to invest can have that application rejected by the Treasurer – the final decision maker- on “national interest” grounds.

A process that is both subjective and secretive.

Finally, it has been made clear to CPC directly that this new foreign investment process is now actively deterring potential investors. Further, these new rules are impacting negatively on rural property owners as it is taking competitive tension out of the rural property market.

That is, this new system is also imposing a significant and unnecessary cost on the Australian economy.

Suggested Action

As stated above CPC proposes that the PC recommend the new foreign investment rules be subjected to an independent review during 2017 to ensure their impact on the economy is understood and amendments implemented in a timely fashion if required.

While CPC proposes that a full review of FIRB assessment process is required the PC might consider proposing some early administrative reforms in its draft report, including the adequacy of resourcing.

For example, to relieve the administrative burden of having to go to FIRB (with few exceptions) for any land acquisition approval once the \$15m has been hurdled, consideration could be given to a mechanism for cross-referencing prior applications.

This could save applicants for having to restate information each time an application is made; they could just add to previous information already provided in past applications.

CPC notes there is a facility in place for ‘pre-approval’ now for agricultural land with a fee (\$25,000), similar to what had been in place for residential land; how well this “pre-approval” process is administered will determine its success.

2. Land Tenure

CPC supports the view that the key to Australian agriculture maintaining and increasing its international competitiveness is productivity growth. Land is a primary input in the production process and regulations influencing land use must therefore be a priority area for reform.

The area of land covered by pastoral leases across the country is substantial.

CPC notes the PC report titled “Pastoral leases and non-pastoral land use” published in July 2002 that stated pastoral leases cover 44 per cent of the mainland Australian landmass: that is two thirds of all privately managed land and 99 per cent of all pastoral land in Australia.⁴

Queensland has the largest proportion of land area under pastoral leases at 62 per cent, the Northern Territory is next at 47 per cent and pastoral leases cover 39 per cent of Western Australia.

⁴ Productivity Commission. Pastoral Leases and Non Pastoral Land Use. Commission Research Paper. Canberra 2002. Page XI.

As stated above, CPC's landholdings alone cover an area of 5.7 million hectares. When land the company has under lease is taken into account the total area under production is nearly 6.0 million hectares.

In CPC's view the land use conditions imposed by pastoral leases is no longer aligned with modern land management systems. They limit the ability of pastoralists to realise the full commercial potential of the land in an ecologically sustainable manner with any offsetting public benefits.

In that regard CPC notes the PC observation in the Discussion Paper that:

"Lease arrangements that unnecessarily impede the emergence of non-pastoral activities or investment in infrastructure and agriculture could stifle innovation and competition and preclude potential economic and social gains for farmers and the wider community."

While CPC acknowledges that there has been some progress in increasing the flexibility of land use on these leases the system remains unnecessarily restrictive and bureaucratic. As a result, the potential economic returns from the use of nearly half the Australian land mass are not being realised.

Inconsistent rules

CPC, like a number of pastoralists in the north, operates stations in the East Kimberley, in the Northern Territory and in north and central Queensland.

However, the benefits that flow from this spread of climate and terrain are not fully realised because of the administrative complexities that flow from operating one business across three different regulatory systems.

Onerous regulations

Policy Statement Number 3 issued by the Western Australian Pastoral Lands Board illustrates the burden of the current regulatory system on pastoral leaseholders in that state.

The policy statement details the approval process for the cultivation of non-indigenous plant species on a pastoral lease.

The clearance process involves not only complying with five sections of the Land Administration Act but also complying with:

The Plant Disease Act 1914,

The Soil and Land Conservation Act 1945,

The Environment Protection Act 1986,

The Wildlife Conservation Act 1986, and

The Environment Protection and Biodiversity Conservation Act.

The text of Pastoral Lands Protection Board policy statement number 3 is at Attachment A.

Ownership limits

Land tenure legislation also limits ownership of leased land.

In Western Australia the maximum amount of leased land allowed to be held by one entity is 500,000 hectares and in the Northern Territory the limit is 1.3 million hectares.

As highlighted by ABARES in its 2012 report - *Northern Beef Industry: Assessment of Risks and Opportunities* - there are significant economies of scale in expanding the size of beef operations.⁵ Caps on the size of land holdings in the northern Australia beef industry limit the ability of pastoralists to increase the size of their holdings and exploit the resulting efficiencies.

More details on the legislation relating to pastoral leases operated by CPC are at Attachment B.

Applying the Productivity Commission tests

Excessive regulatory coverage

The prescriptive nature of state and territory legislation relating to pastoral leases means the administration of pastoral leases in the northern jurisdictions is unnecessarily bureaucratic.

These legislative regimes – to varying degrees – retard managerial flexibility, limit productive land use, restrict productivity growth and lower economic returns.

Redundant regulations

The system of pastoral leases has been in place for over 100 years and in the view of CPC is out of date.

The development of the northern beef industry into a multibillion dollar export focused industry should be matched with a modern system of land regulation.

Inconsistent or overlapping reporting requirements

As CPC operates stations across three jurisdictions it is required to comply with three different, and inconsistent, land management regimes.

⁵ Trish Gleeson, Peter Martin and Clay Mifsud. Op cit Page 39.

The cost of the regulatory burden

As stated above the fact that CPC operates across two states and the Northern Territory amplifies the administrative challenges of compliance and therefore the cost.

Suggested Action

CPC sees landholders and governments as having two clear but separate roles in the management of pastoral land.

Landholders are best equipped to make decisions on what land use activities will deliver the highest returns and the timing of investment in pursuit of those activities.

Governments are best equipped to develop and enforce sustainable land use regimes that ensures environmental values are protected and ecological functions preserved.

Adopting this clear separation of responsibilities would require a basic change in the way pastoral land is managed. CPC believes that incremental change through amendments to the existing state and territory land tenure arrangements will not achieve the best policy outcome.

While CPC acknowledges that land is the responsibility of the states the application of the same set of sustainable land use principles by all jurisdictions would cut the regulatory burden for businesses operating in a number of different jurisdictions.

Finally, the current limits on individual land holdings that apply in Western Australia and the Northern Territory should also be lifted to enable the economic benefits that flow from economies of scale in the northern pastoral industry to be realised.

The legislative test for pastoralists should be compliance with sustainable land use rules not the size of their landholdings.

3. Environment Protection

The PC Discussion Paper states “all levels of government have regulations which are designed to conserve biodiversity, protect the environment or promote the sustainability of soils, waterways and ecosystems.”

The paper identifies:

- the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*;

- state and territory laws relating to natural and cultural heritage; air, water and waste and resource management;
- state and territory native vegetation regulations; and
- policies relating to climate change and carbon emissions reduction.

The PC Discussion Paper poses an important question:

Is it possible to reduce further the burden of environmental protection regulation on farm businesses while maintaining desired environmental standards?

CPC believes the answer to that question is yes.

CPC has built into its business model strategies to protect the environmental values of the 6.0 million hectares it owns or leases; a public good contribution for which it does not receive or expect any public recompense.

In the absence of the pastoral industry, the direct cost to the Australian community of preserving the environmental and social values of this country would be a significant weight on the public purse.

In CPC's direct experience complying with the current suite of local, state, territory and federal environmental laws, regulations and codes is a complex challenge. For example, at Lake Woods on Newcastle Waters Station CPC manages a conservation reserve (Longreach Waterhole Protected Area). On Newry Station, also in the Northern Territory CPC oversees two conservation areas - covenants on the Land Title – established for the protection of the endangered Gouldian Finch.

While CPC is required to comply with *the Environmental Protection and Biosecurity Conservation Act 1999 (EPBC Act)* at a national level there is a different regulatory picture at a state, territory and local government level.

In Western Australia the company must comply with at least 17 separate laws and related regulations designed to protect the environment, native flora and fauna.

In the Northern Territory, CPC must also comply with at least 10 separate laws and regulations. The number of Acts and associated regulations relating to environmental management in Queensland is 16.

That is, in relation to the environment CPC is required to comply with or take account of at least 45 separate regulatory systems in the management of its properties including the EPBC Act and regulations.

A list of relevant national, state and territory environment protection laws that impact directly or indirectly on CPC are at Attachment C.

Applying the Productivity Commission test

Excessive regulatory coverage

There is excessive regulatory coverage with some provisions contained in pastoral leases relating to environmental management being duplicated by other legislation.

Excessive reporting and record keeping

The range of Acts and related regulations across the three northern jurisdictions requires CPC to operate three separate management systems across its landholdings.

The cost of the regulation

The current environmental regulatory regimes impose an unnecessary administrative burden on landholders across the north.

Suggested Action

The reforms to land tenure arrangements proposed by CPC above could also improve the environmental management of pastoral land.

The application of an agreed set of sustainable land use standards in place of the wide range of laws, regulations and codes would enable governments to deliver the desired environmental outcomes in a more efficient and effective manner.

The application of the same set of standards across jurisdictions would also ensure consistency of environmental management across the north.

Further, a consistent set of sustainable land use standards would also make compliance easier for landholders.

4. Land Clearing

CPC acknowledges the importance of sustaining a critical mass of native vegetation across the northern Australia rangelands. As a result, the company's sustainable land management practices include the preservation of native vegetation.

As the largest private landholder in Australia, CPC also sees the strategic clearing of vegetation on pastoral leases, in an ecologically responsible way, as a key land management tool the pastoral industry needs to improve productivity.

However, CPC like other pastoralists in the north is required to comply with complex state land clearing laws relating to native vegetation management; particularly in Queensland.

The legislation relating to land clearing with which CPC must comply, or take into account, is at Attachment D.

In its property management planning the company must also factor in the terms of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

The challenges of working within this administrative and compliance regime in Queensland are illustrated by a note published by lawyers Clayton Utz. The note is at Attachment E.

The Queensland Government recently flagged its intention to make these laws even tougher placing further limits on the ability of beef producers to manage their properties in an efficient but responsible way.

Applying the Productivity Commission test

Excessive regulatory Coverage

The management of native vegetation in Queensland under the changes announced late last year is an example of what the PC describes as excessive regulatory coverage.

It is administratively complex and, in CPC's view, its intent is not to provide pastoralists with a policy framework in which they can manage areas of native vegetation as part of running a property but to prevent any clearing of vegetation.

CPC is concerned this policy will give little weight to the commercial viability of pastoral leases.

Based on comments by the deputy Premier, Ms Jackie Trad, the proposed new regulations in Queensland will also be an example of regulatory creep. It is CPC's view that the proposed regulations are likely to go well beyond what it required to achieve the Government's policy objective.⁶

Excessive reporting and record keeping

The native vegetation management legislation in Queensland imposes excessive administrative costs on pastoral leaseholders.

Inconsistent or overlapping reporting requirements.

The three native vegetation management regimes across northern Australia impose inconsistent land clearing rules on pastoral leaseholders such as CPC.

The cost of the regulation

Excessive restrictions on the management of native vegetation on pastoral leases have a negative cost and productivity impact on beef production in northern Australia.

Attachment E below illustrates this point clearly.

⁶ The Hon. Jackie Trad, Deputy Premier. Media statement: Queensland Government Acts on Vegetation Management. November 28, 2015.

Proposed Action

CPC proposes that the current native vegetation regulations across the northern jurisdictions should be reviewed and recast to meet the following tests:

- *ensure the biodiversity of a region is protected,*
- *enable the sustainable use of the land for pastoral and related purposes, and*
- *provide policy consistency and administrative efficiency across northern Australia.*

The recast native vegetation rules should then be built into the sustainable land use standards described above.

Consideration should be given of accrediting state native vegetation frameworks under the EPBC Act to the extent the vegetation in question related to a matter of national environmental significance.

5. Native Title

CPC notes that some submissions to the White Paper on Developing Northern Australia observed the costs and time delays associated with native title processes under the Commonwealth *Native Title Act 1993* could make some proposed commercial developments unviable.⁷

The PC Discussion Paper refers to claims that unresolved native title claims can make property rights uncertain, making negotiations relating to future land use more likely to break down.

In CPC's direct experience, Native Title can co-exist with non-indigenous property rights.

CPC has worked productively with indigenous groups under provisions of the *Native Title Act* and achieved, from CPC's prospective, what have been satisfactory outcomes.

In recent years, non-exclusive Native Title determinations been made over the following

Northern Territory station leases:

- Newcastle Waters,
- Auvergne,
- Newry,
- Tandyidgee,
- Ucharonidge, and
- Dungowan.

⁷ Australian Government. Our North, our Future: White Paper on Developing Northern Australia. 2015.

An Aboriginal Corporation was appointed for the Native Title holders of Ucharonidge in April 2015.

Two Native Title determinations have occurred recently in Queensland over Nockatunga Station with Indigenous Land Use Agreements signed with the Kullilli people in July 2014 and with the Boonthamurra people in June 2015.

In 2004, CPC reached an agreement with the Amanbidji community to lease one third of its traditional land. That agreement was for a period of 10 years and over that time the company made significant investments in water and fencing and cattle handling facilities.

The original ten year sublease over this land has now expired and CPC is seeking to reach an agreement with Traditional Owners for this arrangement – which has been beneficial to both parties - to be extended.

Applying the Productivity Commission tests

Excessive regulatory coverage

The provisions of the Commonwealth *Native Title Act* make negotiations between leaseholders and Indigenous traditional landholders unnecessarily complex and at times, challenging.

There is clearly a view held that the terms of this Act result in excessive regulatory coverage, including regulatory creep defined by the PC as a regulation covering more activity than is warranted.

While CPC accepts that this legislation is complex and negotiations under the terms of the *Native Title Act* challenging, it is the company's view that the nature of the issues being negotiated is also very complex.

Therefore, the opportunity to simplify the terms of the *Native Title Act* to accelerate the settlement of Native Title claims is limited.

Excessive reporting and record keeping.

Native Title Claims are lengthy and paperwork heavy. Claims are largely managed by solicitors, due to the volume and expanse of time it is difficult for pastoralists to remain informed throughout the process. The ability for pastoralists to provide input is limited, for example when anthropological reports are shared, even though the pastoralist may have several decades of knowledge of the property, any response they provide is generally disregarded and in fact often discouraged.

The cost of the regulation.

The direct cost to CPC is limited if engaged through the representation of industry bodies but the time required to engage with solicitors, Traditional Owners and settle land use agreements can be considerable.

Proposed Action

While CPC has worked within the current regulatory framework for settling Native Title claims the time taken to reach an agreement, even with good will on the part of both parties, has been excessive.

In CPC's view that has not been in the interest of the Traditional owners or the company.

CPC proposes that the PC examine options for reducing the time taken to settle claims.

Further, as part of this review the option of placing a time limit on claims be examined.

6. Transport

CPC's freight task

Transport is a major cost to CPC and the northern beef industry generally. Based on CSIRO research in northern Australia a beast will travel around 1,000 kilometres to get to market.

CPC has to manage a significant transport task moving up to 180,000 cattle annually both within its network of properties and through the various supply chains.

The company transports up to 20,000 cattle from its Northern Territory properties to its Queensland backgrounding properties. These Territory properties also produce around 34,000 for the live export trade with most cattle exported out of the Port of Darwin.

Around 65,000 cattle from the company's northern Queensland breeding properties transferred to its backgrounding and fattening properties in southern and Western Queensland annually.

All CPC cattle are transported within Australia by road with the vast majority moved in road trains operated by contractors.

National regulatory reform

The PC Discussion Paper notes that moves towards national heavy vehicle regulations and a single regulator sought to lessening compliance burdens reduce duplication and

inconsistency between states and territories and facilitate seamless cross-border operations.

CPC supports the aims of the national transport regulatory regime.

While the Discussion Paper notes that progress has been made there remain a number of concerns.

It states:

“Stakeholders argue that the *Road Safety Remuneration Act 2012* (Cwlth) — which restricts unsafe work practices — duplicates other regulations and has not led to safety improvements.

Western Australia and the Northern Territory are yet to commence the *Heavy Vehicle National Law Act 2012* (Qld) (HVNL), partly due to the restrictiveness of access conditions and the impracticality of the national fatigue management system.

The HVNL recognises local governments as road managers. Local restrictions on road access for some heavy vehicles may adversely affect agricultural productivity.”⁸

CPC notes that the National Heavy Vehicle Regulator (NHVR) commenced business in January 2013 managing the National Heavy Vehicle Accreditation Scheme (NHVAS) and the Performance Based Standards (PBS) Scheme.

CPC also notes the second stage of the NHVR project began operation on 10th February 2014. That includes permit services and coordination of compliance and enforcement activities.

These reforms are welcome.

However, in the context of the PC review it is also worth noting that no less than four sets of regulations support the new national system. They are:

Heavy Vehicle (Vehicle Standards) National Regulation 2012;

Heavy Vehicle (Mass, dimension and Loading) National Registration 2013;

Heavy Vehicle (Fatigue Management) National Registration 2013; and

Heavy Vehicle (General) National Registration 2013.

The *Heavy Vehicle National Law Act 2012* is 774 pages and associated regulations run to more than 325 pages in total.

⁸ Ibid page 15.

Further, as noted by the PC, despite new National Heavy Vehicle rules coming into effect early in 2014, there are still three different heavy vehicle regulatory regimes operating across northern Australia.

The complexities that remain in the national heavy vehicle transport system must result in higher costs for road freight operators and higher freight rates for users such as CPC.

CPC also notes that the newly introduced *Contractor Driver Minimum Payments Road Safety Remuneration Order 2016* comes into effect in April adding further to costs.

State and territory related regulations

CPC also operates a large fleet of vehicles and must therefore comply with state transport laws and related rules in Western Australia, the Northern Territory and Queensland.

In addition to the principle transport legislation there are laws and codes relating to driver fatigue, livestock transport, livestock loading, animal welfare and the transportation of dangerous goods.

In total, there are 39 separate Acts, codes and regulations nationally and across the three jurisdictions that affect CPC either directly or potentially through higher freight rates.

The legislation relating to transport with which CPC must comply, or take into account, is at Attachment F

Applying the Productivity Commission test

Excessive regulatory coverage

The attempt by governments to put in place a national heavy transport regulatory regime to reduce excessive regulatory coverage remains work in progress.

Intrastate transport regulatory regimes are also complex; a problem compounded for CPC given it operates in three jurisdictions and must comply with three separate systems.

Reporting and record keeping.

As CPC operates its business in Western Australia, the Northern Territory and Queensland it is required to comply with the reporting and record keeping requirements of the three transport systems.

Inconsistent and overlapping reporting requirements

See above

The cost of the regulation

The three heavy vehicle transport systems still operating across northern Australia cause additional reporting and recording requirements.

This generates extra work and therefore extra costs, for businesses than would otherwise be the case if a truly national system were in place.

Proposed Action

CPC proposes that the PC recommend that the Federal Minister for Infrastructure and Regional Development engage with the Transport Ministers in Western Australia and the Northern Territory with the aim of having both these jurisdictions signing on the national scheme.

Further, CPC proposes provision be made within the national scheme to accommodate the special circumstances of the northern Australian long haul livestock freight task.

7. Agricultural and Veterinary Chemicals

Australian farm businesses spent more than \$1.4 billion on chemicals in 2013–14.

The use of agricultural and veterinary chemicals is an important part of the production process in northern Australia: they play a key role in growing productivity, controlling pests and diseases and protecting the natural environment through such activities as weed control.

The efficiency and effectiveness of the process of assessment and registration of Agricultural and Veterinary chemicals should therefore be a policy focus of this inquiry and a priority for government.

CPC notes the reference in the PC Discussion Paper to consultations related to the development of the Agricultural Competitiveness White Paper and a previous review of regulatory burdens on agricultural businesses that both raised a number of concerns about the regulation of Agricultural and Veterinary Chemicals.

According to the Discussion Paper those concerns included:

- regulation that is disproportionate to the risks chemicals pose,
- the Australian Pesticides and Veterinary Medicines Authority (APVMA) not taking into account assessments conducted by overseas regulatory agencies, and
- inconsistencies between states and territories in regulation after the point of sale, such as for 'off-label uses' — use on pests, crops and situations different to those labelled.

CPC also notes the statement in the Discussion Paper that regulatory arrangements that are disproportionate to risks can place an unnecessary regulatory burden on Australian farmers seeking to access productivity-enhancing agricultural and veterinary chemicals.

CPC and chemical use

There are 9 Acts and at least 8 regulations at a Commonwealth level and across the three northern jurisdictions that apply to the use of on farm chemicals.

For example, chemical residue levels in Queensland are set by:

Agricultural Standards Regulation 1997,

Chemical usage (Agricultural and Veterinary) Control Regulation 1999, and

Stock Regulation 1988.

A list of laws, regulations and codes that affect the handling and use of on farm chemicals is at Attachment G.

Agricultural Chemicals and Veterinary Medicines Review

CPC also notes from the Department of Agriculture and Water Resources website that Deloitte Touche Tohmatsu has been engaged to review the impacts of Work Health and Safety (WHS) legislation on agricultural chemicals and veterinary medicines (agvet chemicals).

The website states that the review will focus on the duplication of effort and unnecessary costs associated with chemical product compliance with both WHS legislation and chemical legislation.⁹

This initiative is welcome.

Specifically, the review will:

- identify any duplication of effort for products from complying with both WHS legislation and agvet chemical legislation;
- identify options to streamline and improve the regulation of work health and safety for agvet chemical products;
- analyse the costs, benefits and other consequences of these options for the safe use of agvet chemical products; and
- make recommendations for preferred options that are within the APVMA's functions and powers

Unfortunately, the review's final report will be released on the department's website by mid-November 2016; outside the scope of the PC inquiry but it could still inform the PC inquiry in this important area.

⁹ <http://www.agriculture.gov.au/ag-farm-food/ag-vet-chemicals/review-of-duplication>

The White Paper Action

CPC notes that in the Agricultural Competitiveness White Paper the Government commits to streamlining the approval of agricultural and veterinary chemicals to reduce user costs and to improve the access to productivity-enhancing chemicals, while still ensuring appropriate safeguards.¹⁰

It rightly states the approval systems for chemicals must be as efficient as possible, maintain safeguards to protect human health and prevent damage to users, plants and animals.

The White Paper concedes that Australian producers often cannot access the chemicals they need. It states overseas producers can gain an advantage in accessing new chemicals well before their Australian counterparts.

CPC is aware of statements by multinational drug companies that they have products registered in markets like USA and it is not worth the cost and time to gain registration in Australia.

The Government states it will limit pre-market assessments of low and medium risk products and focus its attention on products that pose the highest risk. The White Paper also states the Government will recognise assessments from accredited third party suppliers and trusted chemical regulators to reduce the paper work.

The White Paper states where products are available in trusted overseas countries, the Government will examine risks that are different in the Australian market.

In collaboration with industry and the States and Territories, the Government states it will explore opportunities to improve post-market compliance and national control of chemical use.

The Government claims these reforms will result in a reduced regulatory cost to business of around \$68 million annually.¹¹

Applying the Productivity Commission test

Excessive regulatory coverage

As stated above there is a reference in the Discussion Paper to industry concerns about regulatory creep: that is, where the strength of the regulation is more than is justified by risk posed by the chemical.

Excessive reporting and record keeping

The regulatory regime for chemicals also risks requiring excessive reporting or recording of usage.

¹⁰ Australian Government. Agricultural Competitiveness White Paper; Stronger Farmers, Stronger Economy. Canberra 2015. Pages 37 and 38.

¹¹ Ibid. Page 38.

The cost of the regulation

In addition to the direct cost to pastoralists for agricultural and veterinary chemicals there is also a cost to business with new drugs that have been approved for use elsewhere, being forced to undergo a very long and expensive approval process by APVMA in Australia.

The cost to drug manufacturers of the APVMA registration process is also of concern given the size of the Australian market.

Proposed Action

CPC believes there is considerable scope to streamline the current registration procedures for agricultural and veterinary chemicals to get chemicals into commercial use in a timely fashion.

CPC proposes that the PC examine the regulatory regime around the assessment, approval and registration of agricultural and veterinary chemicals with a particular focus on the regulatory changes required to deliver the reforms the Government has committed to in the Agricultural Competitiveness White Paper.

8. Biosecurity

CPC believes that one of the greatest strengths of Australian agriculture is its freedom from pests and disease that are endemic in other countries.

Disease freedom offers Australia a considerable advantage in the global market place. The absence of pests and diseases means the cost of production is lower and productivity higher.

CPC supports the wide-ranging reforms to Australia's biosecurity progressed by the current and previous Governments. In our view, this is a good example of regulatory reform where century old prescriptive legislation has been replaced with an Act that provides for the efficient administration of the national biosecurity regime.

The Federal Government's management of biosecurity has always been focused on national pre-border and border protection. While the states and territories have managed the risks of the spread of invasive species across State borders and within State and Territory boundaries.

As part of the reform process, an Intergovernmental Agreement of Biosecurity (IGAB) has been signed to provide for a clear allocation of resources between the Commonwealth and the states and territories.

The new system is therefore increasingly efficient in the allocation of resources and collaboration between governments in the delivery of biosecurity outcomes.

A list of the 7 Acts and 2 regulations that affect biosecurity is at Attachment H.

Applying the Productivity Commission test.

Excessive regulatory coverage

The reformed biosecurity regime does not impose excessive regulatory coverage. It is very precise. Further, responsibility rests largely with one agency with some complementary services delivered through state and territory authorities.

Regulatory redundancy

The regime has been the subject of a major review – there is little or no redundancy at all in the system.

Excessive reporting and record keeping

One of the stated aims of the new biosecurity system is to improve its administrative efficiency and to date the Government and the Department of Agriculture is generally on track to meeting that objective.

Inconsistent or overlapping reporting requirements

The new biosecurity system is sharply defined in the legislation and based on the draft regulations released to date, in subordinate legislation. These reforms should have had the effect of minimising unnecessary or overlapping reporting requirements.

The regime does not impact negatively on the industry's competitiveness – as stated above it enhances our competitiveness through its preservation of this country's clean, green image. Further, it aids productivity by keeping the cost of production down and improving yields as Australian producers deal with less pests and diseases.

It is the view of CPC that the current system has the right balance between administrative cost and scientific integrity.

The risk to the Australian environment and the cost to the Australian economy, from cutting scientific corners far outweigh any benefit from saving money. For example, the Government estimates the cost of an outbreak of Foot and Mouth Disease in Australia would be \$50 billion dollars over a decade.

The cost of the regulation

While the Government has made considerable progress in reforming the biosecurity regime in Australia. The cost of these services to industry are

much higher than those paid by our main competitors in the international marketplace.

Proposed Action

CPC supports the finalisation of the Government's biosecurity reform process to strengthen further the national system to protect Australia's unique biosecurity status.

However, CPC recommend that work on reducing industry charges must continue to be a priority for the Government.

9. Disease and Pest Management

There are a number of other Acts and regulations relating to pest and disease control that impact on CPC directly or indirectly.

The focus of much of this legislation is to ensure the traceability of livestock and provide Australia's key export markets with the assurance that any disease or related problem can be traced quickly and accurately.

CPC support this system as it underpins the beef industry's international reputation for producing high quality, disease free product.

Tick control

The Queensland Government has announced its intention to develop draft regulations under the Biosecurity Act 2014 for the control and management of cattle ticks in Queensland.

The regulations will establish two biosecurity zones, infected and free, with movement restrictions on cattle travelling from the infested area to the free area.

There needs to be a clear and predetermined payment and compensation structure to charge this that cause an infection and compensate those that become infected.

Bovine Johnes Disease

There has been a review of the National BJD Program by Animal Health Australia.

Currently the country is divided into zones based on the potential risk of BJD being present with movement of animals between zones carefully controlled, Western Australia is zoned BJD free.

Animal Health Australia has proposed removal of the current zoning, allowing producers to assess the risk for BJD and decide for themselves what animals they will allow onto their property.

It is CPC's view that the focus of the BJD regime should be on preserving disease freedom because of the impact of the disease has on productivity and market.

This is a market access issue as well as a cost – testing – issue.

Legislation relating to disease and pest management that impacts directly, or indirectly on CPC is listed in Attachment I.

10. Animal Welfare

CPC notes that work to establish national animal welfare standards has been underway since the endorsement of Australian Animal Welfare Strategy in 2004.

In CPC’s experience, Australian beef producers have always been aware of and met, their responsibilities in relation to animal welfare. It is important to note that proper welfare practices have been a key to ensuring we have access to overseas markets – that is animal welfare must also be seen as a market-focused policy instrument.

In the case of live exports, the ESCAS system has placed Australia as the global leader in applying and enforcing world’s best practice through the whole supply chain.

The animal welfare regulations relating to the live export trade are addressed in more detail later in this submission.

CPC operates its business in line with the Model Codes of Practice (MCOP) that sit under the Animal Welfare Strategy. These Codes have served as guides for our employees who are responsible for the welfare and husbandry of some 380,000 cattle and 760 horses. The Codes that are of direct or indirect interest to CPC are listed below.

CPC also notes that work has been underway for some time to both upgrade these Codes and convert them into Australian Animal Welfare Standards and Guidelines.

The Animal Health Australia (AHA), website states that:

“The new standards and guidelines will provide a basis for achieving livestock welfare outcomes—through regulation and industry quality assurance activities—to meet community and international expectations and reflect Australia’s position as a leader in modern, sustainable and scientifically based welfare practice.”¹²

CPC supports the main decision-making principles underpinning the development of these standards and guidelines.

They are:

- desirable for livestock welfare;
- feasible for industry and government to implement;
- important for the livestock-welfare regulatory framework; and
- achieve the intended outcome for livestock welfare.

¹² <https://www.animalhealthaustralia.com.au/>

In addition to these codes, there are a range of other state and territory Acts – the jurisdictions where primary responsibility for animal welfare lies - that set rules and standards of behaviour for managing livestock.

The laws and regulations relating to animal welfare with which CPC must comply are at Attachment J.

Welfare standards for cattle

The AHA website advises that state and territory governments have agreed on the revised *Australian Animal Welfare Standards and Guidelines – Cattle*. These standards and guidelines must now be implemented by all the states and territories and will be used as a basis for relevant animal welfare law.¹³

The test for an effective animal welfare regime should be science based and focused on the welfare of the animal not on the political objectives of the animal rights lobby.

Nor should this system be built on the principle of government ‘command and control.’

Importantly, industries and governments must be able to implement welfare systems. In CPC’s view that requires the establishment of a set of standards that industry can practically meet in relation to animal welfare rather than a prescriptive, tightly regulated system.

It is CPC’s view that industry, government and other stakeholders should work towards a national animal welfare co-regulation model.

This would require government and industry working together to meet community standards through a system that is effective, flexible, with lower compliance and administrative costs, and the capacity to respond to stakeholder issues quickly.

Applying the Productivity Commission test

Excessive regulatory coverage

As with a range of other regulatory regimes, the current challenge for CPC is complying with a range of animal welfare different standards across a number of jurisdictions.

The development of uniform standards and guidelines should provide for a uniform set of rules across all jurisdictions and is most welcome.

Proposed Action

CPC is concerned that rules governing animal welfare practices have been at risk of being politicised resulting in excessive regulatory coverage. This politicisation could see the reach of these rules become more extensive, and their application more heavy handed, over time.

¹³ Ibid.

It is important that Government focus of the key decision making principles listed above when considering review of animal welfare policy. In particular, feasible for both industry and government to implement what is proposed.

11. Cultural and Heritage Protection

CPC is required to comply with a number of Acts and regulations that relate to cultural and heritage preservation.

CPC has the following heritage listed sites on its land:

- The Wool Shed and powerhouse at Isis Downs in Queensland
- The Noccundra Hotel in Queensland
- A homestead on Carlton Hill Station and the Ivanhoe crossing Western Australia.

While these laws do not impose an onerous burden on the company they do impose another layer of regulation and obligation - aimed at delivering a public benefit – on a private company.

CPC also has to comply with three separate sets of rules relating to cultural and heritage protection across the northern jurisdictions.

Legislation relating to cultural and heritage protection that impacts on CPC is at Attachment K.

12. Climate Change

In the Discussion Paper, the Productivity Commission identifies climate change as a key Federal Government involvement or regulation at the acquisition, leasing and preparation of land stage and the production and on-farm processing stage of the agricultural cycle.¹⁴

CPC notes research by the Australian Bureau of Agricultural and Resource Economics and Science (ABARES) in a report – *Climate Change: Impacts on Australian Agriculture* – that found without action to adapt to and mitigate climate change production of wheat, beef, dairy and sugar could decline by up to 10 percent by 2030 and 19 percent by 2050.¹⁵

CPC supports government action at an international and national level to respond to climate change.

¹⁴ Productivity Commission. Op Cit page 8

¹⁵ Australian Bureau of Agricultural and Resource Economics and Science (ABARES). *Climate Change: Impacts on Australian Agriculture*. Australian commodities, volume 4, number 4, December quarter. Canberra 2007. Page 657.

At a farm level, CPC supports the NFF view that building resilience into property management practices is the most effective way of mitigating the impact of climate change on agricultural production.

CPC agrees that the strategies to build resilience into farm enterprises must focus on:

- Increasing water use efficiency;
- Maintaining adequate vegetation coverage;
- Protecting biodiversity;
- Sustainable grazing practices;
- Soil preservation;
- Adequate on-farm infrastructure;
- Managing waste;
- Use of renewable energy; and
- Diversification of land use.

CPC also supports the NFF view that with targeted research and development strategies and a robust drought policy the agricultural sector, can continue to make an important contribution even in the face of a changing climate.

While CPC is building strategies to mitigate the impact of climate change on our business we support the NFF view that Australian agriculture's primary focus must continue to be on productivity and profitability.

Carbon abatement strategies

CPC is participating in the Federal Government's carbon abatement program.

Proposed Action

As described earlier in this submission CPC sees the opportunity to strengthen sustainable farm practices through the application of sustainable land use standards.

This would replace a wide range of laws, regulations and codes and would enable governments to deliver the desired outcomes in a significantly more efficient and effective manner.

This approach could also facilitate the adoption of farm practices that will negate the impact of climate change on agriculture. The response to climate change at an individual property level by building resilience through appropriate farm practices will mitigate the impact of a changing climate on agriculture, maximise outcomes for the enterprise and minimise the regulatory burden on the enterprise.

13. Employer Obligations

In the Discussion Paper the Productivity Commission notes that there are a range of issues and regulations that affect all stages of the agricultural supply chain.

The Discussion Paper identifies 'cross cutting' issues as investment opportunities and access to capital, regulations relating to competition, foreign investment, industrial relations and occupational health and safety.

CPC – a SME - employs around 200 staff in the northern dry season and around 90 during the wet season in accordance with a number of laws and regulations that cover, among other matters, conditions of employment, occupational health and safety and workers' compensation.

CPC is required to comply with no less than 54 separate laws plus related regulations at a national, state and territory level.

A list of acts, regulations and codes relating to industrial relations that impact directly or indirectly on CPC are at Attachment L.

Jurisdictional differences

Different rules in different jurisdictions require CPC to operate three separate workforces, with three sets of rules, within the one company.

There are a number of areas where CPC must manage different provisions in separate State/Territory laws on the same subject matter.

These include accommodation on rural properties, workplace health and safety obligations, care of children on properties, tax and long service leave entitlements and regulatory compliance.

There are a number of risks for CPC operating across these multiple State/Territory jurisdictions.

There are regulatory risks associated with the different standards applying in different areas. Some laws have an ambulatory operation, such as workers' compensation laws that make it difficult to assess which law applies to which individual employee in which individual circumstances.

There are regulatory costs associated with the maintenance of systems and records to comply with the differing obligations based on the same business being operated across different States/Territories.

There are regulatory risks associated with different States/Territories exercising competing rights to matters such as workers' compensation premiums and the accrual and payment of pay-roll tax.

There are options for complaints to 'forum shop' with respect to similar rights provided under a State/Territory law and under a Commonwealth law. Clear examples of these include with respect to the discrimination and freedom of association laws.

There are risks associated with the distinction between someone providing personal services under a contract of service or a contract for service, with different tests (and

different outcomes) being required for different laws, such as taxation laws, workers' compensation laws, and the *Fair Work Act* and Payroll Tax obligations.

There are plethora of laws that impact upon every aspect of the employment relationship, some treating employment as a commercial arrangement (*Competition and Consumer Act*), some as a master/servant relationship (*Fair Work Act*) some as dependent contractors (*Workers' Compensation*) with different duties and obligations following.

Applying the Productivity Commission test

Excessive regulatory coverage

As described above while CPC's operates under the Federal *Fair Work Act* and associated regulations it must also comply with a range of other employment related state and territory laws and regulations. This in effect again requires CPC to operate three separate workforces, with three sets of rules, within the one company.

Excessive reporting and record keeping

This system requires excessive reporting or recording requirements as CPC must respond to the legislative requirements imposed in Western Australia, the Northern Territory and Queensland.

Inconsistent and overlapping reporting requirements

As stated three separate regulatory regimes imposed on one company result in inconsistent and overlapping reporting.

The cost of the regulation

The administrative inefficiencies that flow from the industrial regime in Australia impose an unnecessary cost on business.

Proposed Action

CPC proposes that the PC make recommendations in its draft report on a possible process to reduce the massive regulatory burden and associated costs, on companies operating in a number of jurisdictions such as CPC.

Part Two: Supply Chain Issues

Beef Supply Chains

In addition to the wide range of laws that impact on the northern beef industry detailed above there are also a number of specific Acts, regulations and codes that impact on the operational efficiency and add to the cost of operating through the various beef supply chains.

CPC operates in all four supply chains. The company produces cattle for:

- Live export into Asia
- The processing sector that supplies the domestic market
- The processing sector that supplies services export markets; and
- The feedlot sector.

Livestock Production

A list of the Acts, regulations and other reporting requirements which impact on livestock production are included at Attachment M.

Beef Processing

CPC supplies cattle for processing into the domestic beef market.

Any regulatory inefficiencies in this sector therefore flow back to CPC in the form of lower returns. CPC therefore requests that the regulatory regime in the domestic beef processing sector be a priority area in the PC inquiry.

There are 40 different Acts and regulations that impact on beef exports.

A list of the Acts and related instruments which impact on beef processing and exports is included at Attachment N.

Departmental review

CPC notes that these regulations have been the subject of a review which was completed at the end of 2015. The Department website states that the review identified opportunities to improve the efficiency and flexibility of the system.¹⁶

The website states the next stage in the review process is making improvements to the legislation, including:

- a simpler legislative structure that is easy to understand and administer;

¹⁶ <http://www.agriculture.gov.au/biosecurity/legislation/export-regulation-review>

- a broader range of monitoring, investigation and enforcement powers to deal with breaches or acts of non-compliance; and
- clearer provisions for the performance of verification activities (such as audits and inspections) across the supply chain.

CPC supports this reform framework.

Suggested Action

CPC proposes that the PC review the implementation of the reforms to the regulation of the beef export sector against the policy objectives listed above.

The Live Exports Supply Chain

CPC is a major player in the northern Australia live export industry.

The company has a direct interest in two stages of the five stage supply chain – as a producer and also as an operator of two feedlots in Indonesia.

The supply chain into that market includes producers, exporters, importers, feedlots and retailers.

Livestock Exports

The regulation of the livestock export trade has been the subject of what could best be described as a regulatory revolution since the trade was suspended in 2011.

The trade is now regulated by the Livestock Exporter Supply Chain Assurance Scheme (ESCAS).

The ESCAS scheme is based on the following principles:

- Animal welfare: animal management practices throughout the supply chain conform to World Organisation for Animal Health (OIE) animal welfare recommendations;
- Animals remain in and are controlled through the supply chain;
- There is full traceability through the supply chain; and
- The regime is subjected to independent audit.

Details of the ESCAS regime and the legislation that underpin the system are at Attachment O.

While in its initial form ESCAS imposed excessive regulatory coverage, a number of refinements to the scheme have simplified its administration but not compromised its objective of protecting livestock welfare.

Suggested Action.

CPC supports the ongoing reform of the ESCAS scheme that be focused on transitioning from a direct regulation system to a co-regulation model – government and industry working together – supported by a strong system of penalties where breaches occur.

Such an approach would allow responsible companies to get on with business by enabling the Government to respond quickly and effectively where breaches occur.

In this regard CPC supports the work being undertaken by the livestock industry to develop a new, more comprehensive animal welfare program - the Livestock Global Assurance Program (LGAP).

The aim of LGAP is a global assurance and conformity assessment program aimed at fostering world's best practice in the welfare and management of animals, applicable to any international market. LGAP aims to do more for improving animal welfare in foreign markets, in that it is not being limited in scope to just Australian livestock.

Feedlots

CPC supplies cattle to the feedlot sector.

While the cattle feedlot sector is required to comply with, or take into account, a wide range of local, state and territory regulations its governance is broadly defined by a national code of conduct – The National Environmental Code of Practice.

Under this regime the performance of the industry against the standards set by the code is the subject of an annual audit.

Details of the regulatory regime for feedlots are included at Attachment P.

Applying the Productivity Commission test

Excessive regulatory coverage

A maze of local, state and territory regulations impact on the establishment and operation of feedlots in Australia.

However, the industry has addressed obligations that flow through these systems, and community expectations, through a national industry developed

regulatory regime – *The National Beef Cattle Feedlot Environmental Code of Practice*.

The industry has also developed National Guidelines for Beef Cattle Feedlots in Australia as a companion document to the Code.

Compliance with this code of practice is enforced by annual audits through the National Feedlot Accreditation Scheme (NFAS).

This national regime maximises compliance with community standards.

Inconsistent or overlapping reporting requirements.

While acceptable standards are compiled with under the national code the industry is still obliged to operate under state, territory and local government regulations.

Suggested Action.

CPC recommends that the PC consider using the national industry code that governs the operation of feedlot across Australia as a model for wider application.

Attachment A

WA Pastoral Lands Board

Policy Statement No. 3

Policy Title: Permits for the Cultivation of Non-indigenous Plant Species on a Pastoral Lease

Policy Statement: The cultivation of non-indigenous plant species can improve the viability of a pastoral lease however; some species can or have the potential to adversely affect the environment.

A permit from the Pastoral Lands Board (the PLB) is required for the cultivation of any plant species not indigenous to Western Australia.

Purpose / Objective:

To support the cultivation by Lessees of appropriate non-indigenous plant species on pastoral leases in WA.

To provide policy position and guidelines regarding the application process for a permit to cultivate non-indigenous plant species on a pastoral lease in WA.

Background:

Section 110 of the Land Administration Act 1997 (LAA) states that no indigenous plant species must not be sown or cultivated on a pastoral lease without a permit issued by the PLB (e.g. a permit issued under s.119 or 120).

Section 111 of the LAA requires the lessee to control declared plants on a lease in accordance with the *Agriculture and Related Resources Protection Act 1976* and to the satisfaction of the PLB.

Section 119 of the LAA allows the PLB to issue a permit to a lessee to cultivate non-indigenous pasture on specified land under a lease.

Section 120 of the LAA allows the PLB to issue a permit to a lessee to use a specific area of land on their lease for crop, fodder, horticultural or other agricultural production if the PLB is satisfied that the proposed use is reasonably related to the pastoral use of the land.

The permit may include permission to sell the produce.

Under section 117 of the LAA the PLB must not issue a permit unless it is satisfied that any requirements in relation to the proposed activity arising from the operation of:

- the *Agriculture and Related Resources Protection Act 1976*;
- the *Environmental Protection Act 1986*;
- the *Soil and Land Conservation Act 1945*;
- the *Wildlife Conservation Act 1950*; or
- any other written law relating to environmental conservation which is applicable to the land under the lease, have been complied with.

The introduction of non-indigenous plant species into Western Australia is controlled by the *Biosecurity and Agriculture Management Act 2007*.

Authorities and Delegations

The PLB has authority to consider and approve (or otherwise) granting a permit for the cultivation of non-indigenous plant species under sections 119 and 120 of the LAA.

Policy Implementation Guidelines

In order to satisfy itself that the requirements of section 117 of the LAA have been met, the PLB will refer applications to cultivate no indigenous plants species on a pastoral lease to the Department of Agriculture and Food WA (DAFWA) and the Department of Environment and Conservation (DEC) for advice.

DAFWA and DEC may conduct the following in relation to the application:

- a Weed Risk Assessment (WRA) on the plant species proposed for cultivation; and
- a site assessment.

DAFWA will assess the permit application in relation to the requirements of the following legislation:

Agriculture and Related Resources Protection Act 1976

This Act regulates the introduction into an area of the State, and the control of declared plants and animals.

Impact:

Plants that are declared under this Act are controlled through regulation of movement and the requirement of landholders to control these plants, including the eradication of certain species and to prevent them from spreading to uninfected areas.

Plant Diseases Act 1914

Schedule 5 - Permitted plants

This Act provides that plants must be on the 'permitted list' before being allowed into Western Australia. Permitted plants are those plants which are:

- native to this State; or
- specifically listed in the Schedule 5.

Impact:

If the potential plant for introduction is not on the permitted list it must be assessed for its weed potential before being added to either the permitted or quarantine weed list.

If any organisation or individual wishes to import a new plant species into Western Australia for any purpose whether for pastoral, other agricultural uses, horticulture, ornamental, medicinal use, or other (e.g. zoo fodder), that species must undergo a weed risk assessment and its potential for carrying diseases must also be assessed.

Soil and Land Conservation Act 1945

This legislation relates to the conservation of the State's soil and land resources and to the mitigation of land degradation.

Impact:

Clearing to sow a non-indigenous plant species may impact on the present or future level of land use and the stability of that land.

Both of these Acts will be repealed when the *Biosecurity and Agriculture Management Act 2007* (BAM Act) commences full operation.

Biosecurity and Agriculture Management Act 2007

This Act is concerned with providing effective biosecurity and agricultural management for Western Australia by controlling the entry, establishment, spread and impact of organisms that may have an adverse impact on other organisms, humans, and the environment or agricultural, fishing or pearling activities carried on in WA.

DEC will assess the permit application in relation to the requirements of the following legislation:

Environmental Protection Act 1986

An Act dealing with environmental harm provisions and the regulation of land clearing.

Impact:

The main issue is the potential of the non-indigenous species to directly or indirectly displace the native vegetation or impact on the habitat of indigenous aquatic or terrestrial animals.

Wildlife Conservation Act 1950

This Act is primarily concerned with the protection of Western Australia's native flora and fauna.

Impact:

The concern is whether the introduced plant could impact negatively on native flora and/or fauna.

Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)

The primary focus of this Act is on the protection of the environment, especially matters of national significance such as World Heritage Areas, Wetlands of International Significance, migratory birds and listed threatened species and communities.

Impact:

Proposals that may impact on any of these matters may be assessed under this legislation by the Australian Government or the Department of Environment and Conservation under delegated authority.

Some non-indigenous plant species that have a weed history may be under development by DAFWA as potential pastures. The PLB may grant a permit for these species if appropriate management conditions can be developed and met by the pastoralist. The applicant should

contact DAFWA to develop a management plan prior to submitting an application for a permit.

If the non-indigenous plant species has no documented history of cultivation in the rangelands the PLB may consent to issue a permit for a trial cultivation to be carried out on a pastoral lease in consultation with DAFWA and DEC. Pastoralists must contact DAFWA to discuss a trial prior to submitting an application for a trial permit to the PLB.

The PLB will consider the advice provided by DAFWA and DEC in making a determination regarding issuing a permit. If the clearance of land is required for the introduction of the non-indigenous species, a clearing permit is required from the Department of Environment and Conservation.

Attachment B

Land Tenure: Acts, regulations and codes that impact or may impact on CPC

Western Australia

Land Administration Act 1997

Land Administration Regulations 1998

Land Administration (Land Management) Regulations 2006

Northern Territory

Pastoral Land Act 1992

Pastoral Land Regulations

Crown Lands Act 1992

Crown Lands Regulations

Queensland

Land Act 1994

Land Regulations 2009

Land Title Act 1994

Land Title Regulations 2015

Attachment C

The Environment: Acts, regulations and codes that impact or may impact on CPC.

National

Environment Protection and Biodiversity Conservation Act 1999

Environment Protection and Biodiversity Conservation Regulations 2000

Western Australia

Land Administration Act

Land Administration Regulations

Environmental Protection Act 1986

Environmental Protection (Clearing of Native Vegetation) Regulations 2004

Agriculture and Related Resources Protection Act 1976

Agriculture and Related Resources Protection Regulation 2011

Soil and Land Conservation Act 1945

Soil and Land Conservation Regulations 1992

Rights in Water and Irrigation Act 1914

Rights in Water and irrigation Regulations 2000

Wildlife Conservation Act 1950

Wildlife Conservation Regulations 1970

Conservation and Land Management Act 1984

Conservation and Land Management Regulations 2002

Waste Avoidance and Resource Recovery Act 2007

Waste Avoidance and Resource Recovery Regulation 2008

Waste Avoidance and Resource Recovery Levy Regulation 2008

Northern Territory

Territory Parks and Wildlife Conservation Act 2011

Territory Parks and Wildlife Conservation Regulations

Territory Parks and Wildlife Conservation by-laws

The Soil Conservation and Land Utilisation Act 2001

Weeds Management Act 2001

Weed Management Regulations

Bushfires Act

Bushfires Regulations

Water Act

Water Regulations

Queensland

Environmental Protection Act 1994

Environmental Protection Regulation 2008

Environmental Protection (Water) Policy 2009

Water Act 2000

Water Regulations 2002

Plant Protection Act 1989

Plant Protection Regulation 2002

Land Protection (Pest and Stock Route Management) Act 2002

Land Protection (Pest and Stock Route Management) Regulation 2003

Land Act 1994

Land Regulation 2009

Exotic Diseases in Animals Act 1981

Exotic Diseases in Animals Regulations 1998

Soil Conservation Act 1986

River Improvement Trust Act 1940

River Improvement Trust Regulation 2013

Attachment D

Land Clearing: Acts, regulations and codes that impact or may impact on CPC

Western Australia

Land Administration Act

Land Administration Regulations 1998

Land Administration (Land Management) Regulations 2006

Environmental Protection Act 1986

Environmental Protection (Clearing of Native Vegetation) Regulations 2004

Northern Territory

Pastoral Land Act

Pastoral Lands Regulations

Planning Act

Planning Regulations

Queensland

Vegetation Management Act 1999

Vegetation Management Regulation 2012

Sustainable Planning Act 2009

Sustainable Planning Regulations 2009

Planning and Environmental Court Rules 2012

Attachment E

Clayton Utz Insights

02 April 2015

A guide to clearing vegetation in Queensland

By Ian Motti and Kathryn Pacey.

Key Points:

State, federal and local laws all affect vegetation clearing, so you need to understand what's covered and your obligations.

Identifying the type of vegetation

The first step in determining whether an approval is needed to clear vegetation is to identify the type of vegetation to be cleared and the protections that might apply to it as a result.

There are a number of statutory controls, at each level of government, which protect vegetation and regulate clearing activities. Accurate identification of the vegetation that will be affected by proposed clearing activities will inform which, if any, of those controls may apply, including:

*Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act);
Vegetation Management Act 1999 (Qld);
Nature Conservation Act 1992 (Qld); and
local government planning schemes and local laws.*

A variety of online mapping tools are available free of charge that enable an initial assessment to be carried out on the existence, and extent, of protected vegetation located on land that is proposed to be cleared.

EPBC Act

The EPBC Act can be triggered if vegetation to be cleared is:

- a listed threatened species or part of a listed threatened community
- providing habitat for listed threatened species
- located on a national heritage place or world heritage place
- within the catchment of a declared RAMSAR wetland
- on Commonwealth land.

The Protected Matters Search Tool can be used to identify whether MNES, or other protected matters under the EPBC Act, are likely to occur on the subject land.

Vegetation Management Act

The *Vegetation Management Act* establishes the vegetation management framework for Queensland which applies to all vegetation ^[1] other than state forests, national parks, forest reserves and certain other tenures defined under the *Forestry Act 1959* and the *Nature Conservation Act*.

The vegetation management framework uses a series of maps to determine what vegetation is regulated and where clearing may not take place.

Generally the clearing of vegetation to which the *Vegetation Management Act* applies is "assessable development" under the *Sustainable Planning Act 2009* and will require a development approval in accordance with that Act, unless an exemption under the *Sustainable Planning Regulation 2009* applies to the clearing.

Nature Conservation Act

Before starting any clearing, a Flora Survey Trigger Map should be obtained from the Department of Environment and Heritage Protection to find out if any part of the area to be cleared is within a "high risk area".

The Trigger Map is a property level mapping system which shows where endangered, vulnerable or near threatened (EVNT) plants are present, or are likely to be present, and identifies these areas as high risk. Trigger Maps are available from the Department on Environment and Heritage Protection

For proposed clearing that falls within a high risk area, a flora survey of the "clearing impact area" (generally comprised by the area to be cleared plus a 100m buffer around the boundary of that area) that complies with the Flora Survey Guidelines, or an alternative methodology agreed to by the Chief Executive, must also be undertaken before any clearing is started.

If EVNT plants are to be cleared or may be impacted by the proposed clearing, a clearing permit will be required unless an exemption applies.

Local government planning schemes and local laws

Finally, and in addition to the above, before undertaking any clearing you must consider whether the vegetation is protected under the planning scheme or a local law of the relevant local government authority.

Are there any applicable exemptions?

Once the vegetation and applicable statutory controls have been identified, the next step is to determine whether an exemption applies to the clearing. An exemption may apply based on a range of factors, including:

- the tenure and/or zoning of the land to be cleared
- the area of vegetation to be cleared
- the purpose of the clearing or activity/use which necessitates the clearing
- the entity doing the clearing (eg. private or public), and
- other approvals that are required for, or apply to, the land.

For example, under the *Sustainable Planning Regulation 2009* the clearing for a resource activity, community infrastructure or clearing which is necessary to remediate contaminated land on either the environmental management register or contaminated land register, will be exempt and does not require an approval under the *Sustainable Planning Act*.

Is an approval required?

Unless an exemption applies, the clearing of protected vegetation is likely to require an approval pursuant to the applicable statutory control.

EPBC

Clearing that is likely to have a significant impact on matters of national environmental significance (MNES) should be referred to the Commonwealth Environment Minister to determine whether the proposed action is a "controlled action".

A controlled action will need to go through the assessment and approval process under the EPBC Act. If an approval is required, a condition could require an environmental management plan, offset or other contribution be provided in respect of the vegetation lost as a result of the clearing.

Vegetation Management Act

If there are no applicable exemptions and a development approval is required, an application cannot be made unless the Chief Executive administering the *Vegetation Management Act* is satisfied the clearing is for a "relevant purpose" as prescribed by the Act.

This includes development that is:

- a coordinated project under the *State Development and Public Works Organisation Act 1971*
- to ensure public safety
- for clearing an encroachment
- for an extractive industry
- for "relevant infrastructure activities" which includes:
 - establishing and maintaining a necessary fence, firebreak, road, or vehicular track; or
 - constructing and maintaining necessary built infrastructure.

Proposed vegetation clearing which triggers the requirement for a development approval under the *Sustainable Planning Act* and is for a relevant purpose will proceed to be assessed through the integrated development assessment system under that Act.

A number of self-assessable codes have also been made for certain vegetation types and clearing activities under the *Vegetation Management Act / Sustainable Planning Act*, including for:

- management purposes;
- fodder harvesting
- improving operational efficiency of existing agriculture
- and necessary environmental clearing, among others.

Nature Conservation Act

Under the *Nature Conservation Act* it is an offence to take a protected plant that is in the wild other than under:

- a conservation plan applicable to the plant (note however that the Nature Conservation (Protected Plants) Conservation Plan 2000 has been repealed);
- a licence, permit or other authority issued or given under a regulation; or
- an exemption under a regulation.

Unless an exemption applies, a protected plant clearing permit is required.

1. Is an offset required, and available?

If an EPBC Act approval, development approval, environmental authority or clearing permit is required to authorise the clearing of protected vegetation, it may contain a condition requiring the provision of an environmental offset relating to the vegetation, or area, authorised to be cleared.

An offset required under an EPBC Act approval will need to be provided in compliance with the *Environment Protection and Biodiversity Conservation Act 1999* Environmental Offsets Policy.

An offset required under a development approval, environmental authority or clearing permit will need to be provided in compliance with the *Environmental Offsets Act 2014* and Environmental Offsets Policy and any local government offset policy (if applicable).

Before undertaking any clearing it is important to consider whether offsets are likely to be required so that the design process and approvals pathway can take this into account. Avoidance and mitigation measures should always be the primary strategy for managing potential impacts on protected vegetation before looking at offsets.

Information you need

- ✓ What is the vegetation that is to be cleared?
- ✓ Is the vegetation mapped as protected vegetation?
- ✓ What is the activity or use of land that necessitates the clearing?
- ✓ Who will be responsible for undertaking clearing?
- ✓ What is the tenure of that land?
- ✓ Who is the owner of that land?
- ✓ What other approvals (if any) are required in respect of that activity or use?

Things to consider

- ✓ Is the vegetation mapping accurate?
- ✓ Are there any applicable exemptions?
- ✓ If approval is needed - are there any bars to an application being made?
- ✓ Can the extent of vegetation clearing be mitigated or avoided?
- ✓ Will an offset be required and available?

^[1]"Vegetation" is relevantly, a native tree or plant other than the following —
(a) grass or non-woody herbage;
(b) a plant within a grassland regional ecosystem prescribed under a regulation;
(c) a mangrove.

Attachment F

Transport: Acts, regulations and codes that impact on or may impact on CPC.

National

Heavy Vehicle National Law Act 2012

Heavy Vehicle (Vehicle Standards) National Regulation 2012

Heavy Vehicle (Mass, dimension and Loading) National Registration 2013

Heavy Vehicle (Fatigue Management) National Registration 2013

Heavy Vehicle (General) National Registration 2013

Road Safety Remuneration Act 2012

Road Safety Remuneration Regulation 2012

Western Australia

The Road Traffic (Administration) Act 2008

The Road Traffic (Vehicles) Act 2012

Road Traffic (Vehicles) Regulations 2014

Road Traffic (Administration) Regulations 2014

Occupational Health and Safety Act

Code of Practice for the Transportation of Cattle

Dangerous Goods Safety Act 2004

Dangerous Goods (Safety Explosives) Regulations 2007

Dangerous Goods (General) Regulations 2007

Dangerous Goods (Road and Rail Transport of Non Explosives) Regulations 2007

Dangerous Goods (Storage and Handling of Non Explosives) Regulations 2007

Northern Territory

Motor Vehicles Act

Motor Vehicles Regulations

Motor Vehicles (Fees and Charges) Regulations

Motor Vehicles (Standards) Regulations

Motor Vehicles (Standards) Regulations – Australian Vehicle Standards Rule

Livestock loading scheme

Workplace Health and Safety (National Uniform Legislation) Act

Workplace Health and Safety (National Uniform Legislation) Regulations
Road Transport Fatigue Management Code of Practice
Dangerous Goods Act 2012
Dangerous Goods Regulations
Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2015
Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Regulations
Queensland
Heavy Vehicle National Law Act (QLD) 2012
Transport Operations (Road Use Management-Dangerous Goods) Regulation 2008
Transport Operations (Road Use Management-Driver Licencing) Regulation 2010
Transport Operations (Road Use Management-Road Rules) Regulation 2009
Transport Operations (Road Use Management-Vehicle Standards and Safety) Regulation 2010
Transport Operations (Road Use Management-Vehicle Registration) Regulation 2010
The Animal Care and Protection Act 2001
Animal Care and Protection Regulations 2012

Attachment G

Agricultural and Veterinary Chemicals: Acts, regulations and codes that impact on or may impact on CPC

National

Agricultural and Veterinary Chemical Code Act 1994

Agricultural and Veterinary Chemicals Code Regulations 1995

Western Australia

Agricultural and Veterinary Chemicals (Western Australia) Act 1995

Agricultural and Veterinary Chemicals (Western Australia) Regulations 1995

Health (Pesticides) Regulations 2011

Poisons Act 1964

Poisons Regulations 1965

Northern Territory

Agricultural and Veterinary Chemicals (Control of Use) Act 2011

Agricultural and Veterinary Chemicals (Control of Use) Regulations

Agricultural and Veterinary Chemicals (Northern Territory) Act

Dangerous Goods Act 2012

Dangerous Goods Regulations 2012

Queensland

Chemical Usage (Agricultural and Veterinary) Control Act 1988

Chemical Usage (Agricultural and Veterinary) Control Regulations 1999

Chemicals Distribution Control Act 1966

Environmental Protection Act 1994

Environmental Protection Regulation 2008

Environmental Protection (Water) Policy 2009

Attachment H

Biosecurity: Acts, regulations and codes the impact or may impact on CPC

National

Biosecurity Act 2015

Biosecurity Regulations 2015

Western Australia

The Biosecurity Control Act 1986

Biosecurity and Agriculture Management Act 2007

Biosecurity and Agriculture Management Regulations 2010

Biosecurity and Agriculture Management (Rates and Charges) Act 2007

Northern Territory

The Biological Control Act

Queensland

The Biosecurity Act 2004

The Biological Control Act 1987

Attachment I

Disease and Pest management: Acts, regulations and codes that impact or may impact on CPC

National

National Livestock Identification System (NLIS)

The *National Livestock Identification System (NLIS)* which ensures cattle, sheep, pigs and goats can be identified and tracked throughout Australia.

Western Australia

Exotic Diseases of Animals Act 1993

Exotic Diseases of Animals Regulations 2011

Queensland

Diseases in Timber Act 1975

Diseases in Timber Regulations 1997

Stock Act 1915

Stock Regulation 1988

Stock Identification Regulation 2005

Stock (Cattle Tick) Notice 2005

Plant Protection Act 1989

Plant Protection Regulation 2002

Attachment J

Animal Welfare: Acts, regulations and codes that impact on or may impact on CPC

National

Codes of direct or indirect interest to CPC include:

Model Code of Practice for the Welfare of Animals: Cattle

Model Code of Practice for the Welfare of Animals: Feral Livestock Animals

Model Code of Practice for the Welfare of Animals: Land Transport of Cattle

Model Code of Practice for the Welfare of Animals: Land Transport of Horses

Model Code of Practice for the Welfare of Animals: Animals in Saleyards

Model Code of Practice for the Welfare of Animals: Livestock in slaughtering Establishments

Western Australia

Animal Welfare Act 2002

Animal Welfare (General) Regulations 2003

Northern Territory

Animal Welfare Act

Animal Welfare Regulations

Queensland

Animal Care and Protection Act 2001

Animal Care and Protection Regulations 2012

Attachment K

Cultural and Heritage Acts, regulations and codes that impact or may impact on CPC.

National

Environment Protection and Biodiversity Conservation Act.

Environment Protection and Biodiversity Conservation Regulations

Western Australia

Heritage of Western Australia Act 1990

Heritage of Western Australia Regulations 1991

Northern Territory

Heritage Act 2011

Heritage Regulations

Queensland

The Queensland Heritage Act 1992

The Queensland Heritage Regulations 2015

Attachment L

Industrial Relations legislation that impacts on CPC.

National

Fair Work Act 2009

Fair Work Regulations 2009

Age Discrimination Act 2004

Disability Discrimination Act 1992

Racial Discrimination Act 1975

Sex Discrimination Act 1984

Human Rights and Equal Opportunity Commission Act 1986

Australian Human Rights Commission Regulations 1989

Independent Contractors Act 2006

Independent Contractors Regulations 2007

Competition and Consumer Act 2010

Competition and Consumer Regulations 2010

Privacy Act 1988

Privacy Regulation 2013

Western Australia

The Fair Work Act 2009

Fair Work Regulations 2009

Long Service Leave Act

Workers Compensation and Injury Management Act 1981

The Equal Opportunity Act 1984

Pay-roll Tax Act 2002 as well as the relevant rebate acts

Juries Act

Northern Territory

The Fair Work Act 2009

Return to Work Act 2015

Return to Work Regulations
The Anti-Discrimination Act
Long Service Leave Act
Public Holidays Act
Juries Act
Dangerous Goods Act
Dangerous Goods Regulations

Queensland

The Fair Work Act 2009
The Industrial Relations Act 1999
Industrial Relations regulations 2011 Workers Compensation and Rehabilitation Act 2003
Workers Compensation and Rehabilitation Regulations 2014
Workplace Health and Safety Act 2011
Workplace Health and Safety (Code of Practice) Regulation 2011
The Work Health and Safety Act Regulations

There are a large number of Codes of Practice relevant to the rural industry, including:

Children and Young Workers Code of Practice 2006
Prevention of Workplace Harassment Code of Practice 2004
Hazardous Substances Code of Practice 2003
Manual Tasks Code of Practice 2000
Risk Management Code of Practice 2007
Code of Practice Electrical Equipment – Rural Industry
Rural Plant Industry Code of Practice 2004
The Storage and Use of Chemicals at Rural Workplaces Code of Practice
Safe Design and Operation of Tractors Code of Practice 2005
Risk Management Code of Practice 2007
Child and Young Workers' Code of Practice 2006
The Pastoral Workers Accommodation Act 1980
The Pastoral Workers Accommodation Regulations 2015

Workers Accommodation Act 1952

Anti-Discrimination Act 1991

Juries Act

Jury Regulation 2007

Attachment M

Beef Production: Acts, regulations and codes that directly impact on CPC.

National

Livestock Production Assurance National Vendor Declaration

Feed and fodder declarations.

There are five stock feed and fodder vendor declarations which may be received

The National Livestock Identification System ('NLIS')

Western Australia

Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013

Biosecurity and Agriculture Management Act 2007

Biosecurity and Agriculture Management Regulations 2013

Northern Territory

Livestock Act

Livestock Regulations

Queensland

Brands Act 1915

Brands Regulation 2012

Stock Act 1915

Stock Regulation 1988

Stock (Cattle Tick) Notice 2005

Stock (Identification) Regulation 2005

Attachment N

Regulatory regime for beef processing

Key legislation includes:

Western Australia

Food Act 2008

This Act provides for the safety and suitability of food for human consumption, and for related purposes.

The objects of this Act are:

- to ensure food for sale is both safe and suitable for human consumption;
- to prevent misleading conduct in connection with the sale of food; and
- to provide for the application in this State of the Food Standards Code.

Northern Territory

Meat Industries Act

Meat Industries Regulations

This Act aims to protect public health and promote domestic and export markets for the meat industry by providing for the processing of wholesome meat for human consumption and for related purposes

Queensland

Food Production (Safety) Act

Safe Food Production Queensland is constituted under this Act and its powers to regulate the meat industry are outlined under the *Food Production Safety Regulation 2002 (Qld)*.

It is responsible for regulating the meat industry including slaughtering, marketing and hygiene. It controls the accreditation of abattoirs, public meat markets, poultry slaughter houses and knacker yards.

There are 40 different Acts and regulations that impact on beef exports.

They include:

Export Control Act 1982

Export Control (Orders) Regulations 1982

Export Control (Animals) Order 2004

Export Control (Fees) Orders 2001

Export Control (Meat and Meat Products) Orders 2005

Export Control (Prescribed Goods – General) Order 2005

Export Control (Fees) Orders 2015

Australian Meat and Live-stock Industry Act 1997

Australian Meat and Live-stock Industry (Conditions on Live-stock Export Licences) Order 2012

Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998

Australian Meat and Live-stock Industry Regulations 1998

Australian Meat and Live-stock Industry (Export of Live-stock to Saudi Arabia) Order 2005

Australian Meat and Live-stock Industry (Live Cattle Exports to Republic of Korea) Order 2002

Australian Meat and Live-stock Industry (Standards) Order 2005

Australian Meat and Live-stock Industry (Live-stock Export Marketing Body and Live-stock Export Research Body) Declaration 2004

Australian Meat and Live-stock Industry (Meat Processor Marketing and Research Bodies) Declaration 2007

Australian Meat and Live-stock (Quotas) Act 1990

Australian Meat and Live-stock (Quotas) Regulations 2000

Export Charges (Collection) Act 2015

Export Charges (Collection) Regulation 2015

Export Charges (Imposition—Customs) Act 2015

Export Charges (Imposition - Customs) Regulation 2015

Export Charges (Imposition—Excise) Act 2015

Export Charges (Imposition—General) Act 2015

Export Charges (Imposition - General) Regulation 2015

Export Inspection and Meat Charges Collection Act 1985

Export Inspection and Meat Charges Collection Regulations 1985
Export Inspection (Establishment Registration Charges) Act 1985
Export Inspection (Establishment Registration Charges) Regulations 1985
Export Inspection (Quantity Charge) Act 1985
Export Inspection (Quantity Charge) Regulations 1985
Export Inspection (Service Charge) Act 1985
Export Inspection (Service Charge) Regulations 1985
Meat Export Charge Act 1984
Meat Export Charge Regulations
Meat Export Charge Collection Act 1984
Meat Export Charge Collection Regulations
Meat Inspection Act 1983
Meat Inspection (Orders) Regulations 1984
Meat Inspection Arrangements Act 1964

Attachment O

Regulatory regime livestock exports

Exporter Supply Chain Assurance Scheme (ESCAS)
Australian Standards for the Export of Livestock (ASEL)

ESCAS is designed to assure the welfare of exported Australian livestock for feeder and slaughter purposes and is based on four key pillars;

- Animal Welfare
- Control through the supply chain,
- Traceability through the supply chain, and
- Independent auditing.

The ASEL were developed following an inquiry into livestock export industry in 2003. ASEL sets out whole of chain approach from the on-farm sourcing and preparation of livestock to unloading in the destination country.

There are six standards outlined in ASEL, the first five relate to export of livestock by sea and the sixth standards is specific to export by air. ASEL standards include;

- Sourcing and on-farm preparation of livestock
- Land transport of livestock
- Management of livestock in registered premises
- Vessel preparation and loading
- On-board management of livestock
- Air transport of livestock.

Under ASEL, exporters must meet statutory reporting requirements during export and after livestock have reached their destination.

These standards are regulated through the Department of Agriculture and governed by Commonwealth Legislation including;

Australian Meat and Live-stock Industry Act 1997 (AMLI Act)
Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998
Australian Meat and Live-stock Industry Regulations 1998
Australian Meat and Live-stock Industry (Export of Live-stock to Saudi Arabia) Order 2005
Export Control Act 1982
Export Control (Animals) Order 2004

Navigation Act 1912
Marine Orders Part 43 Cargo and Handling – Livestock

Exporters must hold a current export licence issued by the Australian Government under the *Australian Meat and Live-stock Industry Act 1997* and the *Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998*.

Export vessels must be certified for the carriage of livestock by the Australian Maritime Safety Authority (AMSA) and comply with orders of *the Navigation Act* that require vessels to be fitted with systems that deliver satisfactory livestock welfare outcomes.

Exporters must demonstrate that livestock will be handled and slaughtered in accordance World Organisation of Animal Health (OIE) animal welfare standards.

This requires an independent audit of each supply chain and the audit report must be provided to the regulator. Independent Auditing requirements under ESCAS are determined by the Federal Department of Agriculture.

Exporters are also required to demonstrate control at all points through the supply chain including during transportation, handling and slaughter and that all livestock can be traced along the supply chain, right to the point of slaughter.

Exporters must also comply with the Prevention of Cruelty to Animals Acts applicable to the jurisdictions in which they operate. These laws apply to all supply chain participants including producers, transport operators, feed-lotters and exporters.

The State Prevention of Cruelty to Animals Acts relevant to the northern Australia live export trade are:

QLD: *Animal Care and Protection Act 2001*

NT: *Animal Welfare Act*, and

WA: *Animal Welfare Act 2002*

Attachment P

Regulatory regime for feedlots

National

Environment Protection and Biodiversity Conservation Act 1999

Environment Protection and Biodiversity Conservation Regulation 1999

The National Beef Cattle Feedlot Environmental Code of Practice

This Code aims to address the environmentally relevant aspects of the site, design, construction and operation of a beef cattle feedlot. The Code is defined in terms of a series of outcomes it is designed to achieve.

These outcomes include:

- preventing or minimising adverse impacts on surface waters external to the feedlot controlled drainage area and external to manure and effluent utilisation areas,
- preventing or minimising adverse impacts on groundwater,
- preventing or minimising adverse impacts on the amenity of the surrounding
- Community,
- preventing or minimising adverse impacts on native flora and fauna and ecological communities, and
- ensuring access to sufficient natural resources to sustain the operations of the feedlot and sustainably utilise nutrients contained in feedlot wastes.
- This Code of Practice does not override or replace federal, state or local government legislation, regulation, plans or policies. Its purpose is to ensure that those planning to construct or operate a feedlot comply with all regulatory requirements.

The National Feedlot Accreditation Scheme (NFAS)

This scheme requires all accredited feedlots to adhere to the Code of Practice along with all other relevant environmental, animal welfare and food safety legislation. Under this program, every accredited feedlot is independently audited each year to ensure compliance.

National guidelines for beef cattle feedlots in Australia

These Guidelines are a companion document to the National Beef Cattle Feedlot Environmental Code of Practice.

Australian Model Code of Practice for the Welfare of Animals

Australian Standards and Guidelines for the Welfare of Animals – Land Transport of Livestock

Western Australia

Environmental Protection Act 1986

Environment Protection Regulations 1987

Water and Rivers Commission Act 1995

The Town Planning and Development Act 1928

Town Planning By laws

Health Act 1911

Fly Eradication Regulations

Health (Pesticides) Regulations 1956

Soil and Land Conservation Act 1945

Agricultural Practices (Disputes) Act 1995

Queensland

Environmental Protection Act 1994

Environment Protection regulation 2008

Sustainable Planning Act 2009

Proponents must apply for a development permit under this Act to establish a feedlot.

Feedlot site requirements include compliance with:

Vegetation Management Act 1999

Nature Conservation Act 1992

Water Act 2000

Animal Care and Protection Act 2001