



Australian Government

Productivity Commission Inquiry into the Regulation of Australian Agriculture: Australian Government response



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Department of Agriculture and Water Resources

GPO Box 858 Canberra ACT 2601

Telephone 1800 900 090

Web agriculture.gov.au

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Overview

The Australian Government is committed to reducing unnecessary red tape and regulations that are constraining opportunities for businesses to grow and create wealth and employment opportunities for Australians. For the agriculture and water resources portfolio, unnecessary red tape imposes costs on farm businesses.

The agriculture sector is a significant contributor to the Australian economy. Agriculture contributes around 2.7 per cent of Australia's gross domestic product. In 2016-17, the gross value of farm production exceeded \$60 billion for the first time in our history. Around 70 per cent of production is exported to the world each year and the value of exports has increased by more than 40 per cent over the last ten years. Agriculture accounts for 14 per cent of Australia's goods and services exports each year. Reducing regulatory barriers will ensure we continue to grow this important pillar of the Australian economy.

To build a better business environment for farmers the Australian Government asked the Productivity Commission to review and report on the regulation of Australian agriculture. This was an initiative of the *Agricultural Competitiveness White Paper*, which delivered \$4 billion in measures to grow agricultural competitiveness. Many of the issues raised in stakeholder consultations informing the White Paper related to excessive regulation applied across all levels of government.

The government welcomes the Productivity Commission's report. The report is wide ranging and identifies regulatory reform opportunities relating to land use, water, animal welfare, technologies, agricultural and veterinary chemicals, biosecurity, transport, food, labour, competition, foreign investment and exports. The findings highlight the significant regulatory costs to farm businesses from a complex array of regulations imposed across all levels of government.

Many of the report's findings reaffirm the direction of reforms already underway at Commonwealth and state level. However, the findings confirm that work still remains to be done. The government acknowledges this and commits to renewing efforts to push for better outcomes for farmers, business and communities.

Much of the direct regulatory responsibility for the Productivity Commission's recommendations rests with state and territory governments. The Australian Government will continue to work closely with those governments to improve regulation, particularly where national action is preferable or required.

The comprehensive assessment by the Productivity Commission extends beyond the formal recommendations. The report will continue to be a valuable resource to government providing many relevant findings and insights which will inform the future direction of regulatory reform in the sector.

A detailed Australian Government response follows, addressing each of the Productivity Commission's 29 recommendations. Overall, the government's position is to support 15 recommendations, note 11, support two in-principle and not support one.

Detailed response to recommendations

Land use regulation

Recommendation 2.1

Land management objectives should be implemented directly through land use regulation, rather than through pastoral lease conditions. State and territory governments should reform land use regulations to enable the removal of restrictions on land use from pastoral leases.

The Australian Government supports the recommendation, noting this is primarily a matter for state and territory governments.

While land use regulation is primarily a matter for state and territory governments the Australian Government supports the removal of unnecessary restrictions on pastoral leaseholds. The government's *White Paper on Developing Northern Australia* found that simpler arrangements would help to increase investor confidence and broaden the range of economic activity undertaken on pastoral leasehold lands, to the benefit of pastoral leaseholders, including Indigenous leaseholders. Removing unnecessary restrictions would also contribute to a more diversified and resilient northern economy.

Recommendation 2.2

State and territory governments should:

- ensure that, where reforms to Crown lands confer additional property rights on a landholder, the landholder pays for the higher value of the land and any costs associated with the change (including administrative costs and loss of value to other parties)
- set rent payments for existing agricultural leases to reflect the market value of those leases, with appropriate transitional arrangements.

The Australian Government notes that this is a matter for the state and territory governments.

As outlined in the *White Paper on Developing Northern Australia*, the north will never reach its potential without secure, tradeable titles to land. Complex land tenure systems across Australia's north are not easily understood by potential investors or financial institutions.

Much of the north is Crown land held under state and territory pastoral leases. Pastoral leaseholders are generally unable to use their land for activities other than grazing, such as horticulture or tourism. Pastoralists trying to broaden economic activity often need approvals from various government bodies. Further, lessees do not have the same security as those with freehold tenure.

The Australian Government supports the efforts of northern jurisdictions to accelerate pastoral lease reforms, making it easier for pastoral owners to diversify their businesses. The Australian

Government notes that pastoral lease reforms need to be balanced with other considerations, such as complying with the *Native Title Act 1993*.

Recommendation 2.3

The Tasmanian Government should repeal the *Primary Industry Activities Protection Act 1995*.

The Australian Government notes that this is a matter for the Tasmanian Government.

Environmental regulation

Recommendation 3.1

The Australian, state and territory governments, in consultation with natural resource management organisations, should ensure that native vegetation and biodiversity conservation regulations:

- are risk based (so that landholders' obligations are proportionate to the impacts of their proposed actions)
- rely on assessments at the landscape scale, not just at the individual property scale
- consistently consider economic, social and environmental factors.

The Australian Government supports the recommendation.

The Department of the Environment and Energy is working cooperatively with state and territory governments wherever possible, noting that these jurisdictions have primary responsibility for regulation of natural resource management, land use and vegetation clearing. These relationships aim to reduce unnecessary duplication in environmental regulation.

The Australian Government applies a risk-based approach when assessing and approving projects under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). For example, proponents are empowered to determine whether their proposed action needs to be assessed under the EPBC Act by examining whether the proposed action is likely to have a significant impact on a matter of national environmental significance. The approach for significant impact is based around impacts which are 'important, notable or of consequence, having regard to its context or intensity'.

The EPBC Act assessment process also allows different assessment methods to be undertaken on a proportionate basis, ranging from assessment on the basis of information provided in the referral form, to assessment by environmental impact statement. When approving a project under the EPBC Act the Australian Government refers to state and territory conditions of approval if they meet Commonwealth requirements, thereby avoiding unnecessary duplication.

As another example, the Australian Government can offer outcomes-based conditions, which give the proponent flexibility in meeting their environmental commitments. Outcomes-based conditions can be tailored to the particular action and set out the environmental outcomes the approval holder must achieve for a protected matter without prescribing how that outcome is to be achieved.

The EPBC Act requires or allows for the application of landscape-scale approaches. Proponents, such as state and territory governments, are encouraged to consider landscape scale assessments. Strategic assessments deliver greater economic certainty, regulatory efficiencies for business and improved ecological outcomes compared to project-by-project approvals.

The EPBC Act explicitly requires that social and economic matters be taken into consideration by the Minister for the Environment (or delegate) when making an approval decision under section 136(1)(b) of the EPBC Act.

Recommendation 3.2

The Australian, state and territory governments should continue to develop market based approaches to native vegetation and biodiversity conservation. Governments could achieve desired environmental outcomes by buying environmental services (such as native vegetation retention and management) from existing landholders.

The Australian Government supports the recommendation.

Market-based approaches harnessing private sector interest and promoting cost effective use of public funds complement and extend other policy mechanisms but will not always be the solution.

Market-based approaches are most effective when other institutional barriers to biodiversity conservation are resolved. For example, in jurisdictions where leases are restricted to pastoral use, diversification of lease uses would allow land to be managed for highest value purposes including (where appropriate) conservation activities, ecotourism, and other non-pastoral uses.

The Australian Government is working with key bodies involved in protected area management to identify how to promote and support conservation on private land. Tax concessions are available for landholders who establish covenants to protect biodiversity on private land, under approved covenanting programs.

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) Environmental Offsets Policy requires 'like-for-like' compensation where a significant impact to a matter of national environmental significance is unavoidable. This policy has led to a market for EPBC-protected matters, although the government does not directly oversee or regulate the market. The government will continue to ensure the policy is implemented with due regard for risk, scientific uncertainty and economic burden.

Current work by Commonwealth, state and territory environment ministers on a common national approach to environmental-economic accounts will help ensure accurate and reliable information is available to governments, communities and business to better understand the condition of the environment and its relationship with the economy. This will support better decision-making, improve the ability to track outcomes and demonstrate the value of the environment to our standard of living.

Recommendation 3.3

The Australian, state and territory governments should review the way they engage with landholders on environmental regulations, and make necessary changes so that landholders are assisted in understanding the environmental regulations that affect them, and the actions required under those regulations. This would be facilitated doing more to:

- recognise and recruit the efforts and expertise of landholders and community-based natural resource management organisations
- build the capability of, and landholders' trust in, the organisations that administer environmental regulations (including local governments).

The Australian Government supports the recommendation.

In March 2018, the Australian Government announced that Dr Wendy Craik would undertake a short-term targeted review to reduce red-tape and find practical ways to help farmers meet the requirements of the *Environment Protection and Biodiversity Conservation Act 1999*. The review aims to identify activities that can be practically implemented to improve regulatory clarity for farmers. The government will consider recommendations arising from this targeted review and the best way to implement agreed recommendations.

The Department of the Environment and Energy continues to work as a contemporary and trusted regulatory agency. This includes measures to ensure communication with the agriculture sector is user-focused and consistent and two-way. The Department continues to work closely with farmers and peak bodies to better understand their operating environment and develop targeted guidance material to improve clarity, engagement and understanding of regulatory requirements.

On-farm regulation of water

Recommendation 4.1

The Australian Government should implement the findings of the Interagency Working Group on Commonwealth Water Information Provision to reduce duplicative and unnecessary water management information requirements imposed on farm businesses.

The Australian Government supports the recommendation.

The Interagency Working Group's report that identified measures to reduce the regulatory and financial burden on rural and urban water entities, such as Irrigation Infrastructure Operators, was released in March 2016. The Australian Government has now implemented all of the report's recommendations. The first tranche of regulatory amendments to implement the report's recommendations was made on 14 April 2016 (*Water Amendment (Water Information) Regulation 2016 (No. 1)*). These amendments, which gave effect to recommendations one and four of the water information review:

- reduce the number of subcategories of water information required from rural water entities such as irrigation infrastructure operators from 37 to 10

- change the frequency of reporting required so that rural water entities would no longer provide daily information to the Bureau of Meteorology (the Bureau) with these changes flowing through to state and territory agencies that provide the relevant data.

The second tranche of regulatory amendments was made on 28 March 2017 (*Water Amendment (Water Information) Regulations 2017*). These amendments, which gave effect to recommendations two and three of the water information review:

- modify Category 5 water information, regarding water use information, to better align the requirements with the water use information that organisations can supply and that the Bureau can use
- reduce both the amount of water use information required and the number of persons required to provide it to the Bureau. Most water use information will be provided by state and territory lead water agencies named in Category A.

Regulation of on-farm animal welfare

Recommendation 5.1

To facilitate greater rigour in the process for developing national farm animal welfare standards, the Australian Government should take responsibility for ensuring that scientific principles guide the development of farm animal welfare standards. To do this, a stand-alone statutory organisation—the Australian Commission for Animal Welfare (ACAW)—should be established. The functions of ACAW should include:

- determining if new standards for farm animal welfare are required, and if so, to develop the standards using good-practice public consultation and regulatory impact assessment processes
- publicly assessing the efficiency and effectiveness of the implementation and enforcement of farm animal welfare standards by state and territory governments
- publicly assessing the efficiency and effectiveness of the livestock export regulatory system and making recommendations to improve the system to the Australian Government Minister for Agriculture.

ACAW should comprise no more than five members (including a Chair) appointed by the Australian Government following consultation with state and territory governments. Members should be appointed on the basis of skills and experience, not as representatives of a particular industry, organisation or group.

It should also include animal science and community ethics advisory committees to provide independent, evidence-based advice on animal welfare science and community values.

The Australian Government notes the recommendation.

The Australian Government takes the welfare of animals seriously. The government's responsibilities related to animal welfare are largely related to trade and exports, and informed by the standards of the World Organisation for Animal Health (OIE) in regulation of these areas. Australia's agricultural industries adopt world leading animal husbandry practices.

Animal welfare within Australia is a state and territory responsibility. However, the government agrees that nationally-consistent standards and guidelines for farm animal welfare are desirable. That is why the government works with state and territory governments to develop standards and guidelines that make it easier for industry, the community and trading partners to understand animal welfare requirements. The standards are designed to be adopted in state and territory legislation. It remains the responsibility of state and territory governments to determine how compliance and enforcement of farm animal welfare is managed.

The government notes that the existing process for developing farm animal welfare standards and guidelines includes extensive public consultation through regulatory impact statements. There is also an ongoing program of work through the Agriculture Ministers Forum to strengthen the partnership between governments on farm animal welfare matters. The Australian Government will continue to work with state and territory governments through the Agriculture Ministers Forum to strengthen national regulatory arrangements for animal welfare.

The government notes the Productivity Commission's recommendation to establish an Australian Commission for Animal Welfare. A new stand-alone national statutory organisation for farm animal welfare would be a significant shift from the current division of responsibilities between the Australian Government and the states and territories. Further, it is not clear there is a feasible constitutional basis to establish such a body, or that the Productivity Commission has established that such a body would have a viable role.

With respect to the livestock export regulatory system, the Minister for Agriculture and Water Resources announced on 31 October 2018 the appointment of a Principal Regulatory Officer within the Department of Agriculture and Water Resources to improve regulatory capability and performance in relation to live animal exports. The Minister also announced an independent Inspector General of Live Animal Exports to provide assurance over Australia's live animal export framework through independent evaluation and verification and make recommendations for overall system improvements.

Recommendation 5.2

State and territory governments should review, by the end of 2017, the way in which their farm animal welfare regulations are monitored and enforced, and make necessary changes so that:

- there is separation between agriculture policy matters and farm animal welfare monitoring and enforcement functions
- a transparent process is in place for publicly reporting on monitoring and enforcement activities
- adequate resourcing is available to support an effective discharge of monitoring and enforcement activities.

State and territory governments should also consider recognising industry quality assurance schemes as a means of demonstrating compliance with farm animal welfare standards, provided that the scheme complies (at a minimum) with standards in law, and involves independent and transparent auditing arrangements.

The Australian Government notes that this recommendation is a matter for the state and territory governments.

The Productivity Commission's report was discussed by Commonwealth, state and territory government officials in 2017. As a result, there is an ongoing program of work through the Agriculture Ministers Forum to strengthen the partnership between governments on farm animal welfare matters. The Australian Government will continue to work with state and territory governments through the Agriculture Ministers Forum to strengthen national regulatory arrangements for animal welfare, including in relation to monitoring and enforcement activities.

The government notes there are a range of welfare assurance schemes and certification programs aiming to encourage or improve farm animal welfare. The government supports the uptake and use of such schemes and certification programs, but it does not support mandatory compliance with these arrangements. A key feature of the approach being pursued collaboratively by all governments is the definition of national minimum standards on which regulation and compliance can be based and from which higher levels of animal welfare can be measured.

Recommendation 5.3

The Australian Government should appoint an independent expert or committee to publicly inquire and report, by the end of 2017, on the efficiency and effectiveness of the livestock export regulatory system.

The review should include an assessment and make recommendations for reform on:

- industry-developed initiatives, such as quality assurance programs, as a means of compliance with livestock export regulations
- recognition of equivalence of regulatory arrangements in livestock export markets
- the effectiveness of the auditing arrangements used to demonstrate compliance with livestock export regulatory requirements, including mandatory rotation of auditors and requirements for auditors to have expertise in animal welfare and animal husbandry.

The Australian Government supports the recommendation in principle.

The government notes the numerous reviews into the live animal export regulatory system have led to significant regulatory changes including the establishment of the Exporter Supply Chain Assurance System (ESCAS) and the development, by industry, of the Livestock Global Assurance System (LGAP)—both world first.

Most recently, the Minister for Agriculture and Water Resources commissioned Mr Philip Moss AM to review the Department of Agriculture and Water Resources' capabilities, powers, practices and culture in relation to live animal exports (Moss Review). Mr Moss reported to the Minister on 27 September 2018. Mr Moss made 31 recommendations, all of which the Department of Agriculture and Water Resources supports or supports in principle.

On 31 October 2018 the Minister for Agriculture and Water Resources announced a range of initiatives, including an external, independent Inspector General of Live Animal Exports who

will oversee the department's regulation of live export and report to the public and the Minister. The Inspector General of Live Animal Exports will provide assurance over Australia's live animal export framework through independent evaluation and verification and make recommendations for overall system improvements.

Regulation of technologies

Recommendation 6.1

The New South Wales, South Australian, Tasmanian and Australian Capital Territory governments should remove their moratoria (prohibitions) on genetically modified crops. All state and territory governments should also repeal the legislation that imposes or gives them powers to impose moratoria on genetically modified organisms by 2018.

The removal of the moratoria and repeal of the relevant legislation should be accompanied by coordinated communication strategies designed to increase public knowledge about the benefits and risks to the Australian community from genetic modification technologies. The Australian, state and territory governments, the Office of the Gene Technology Regulator and Food Standards Australia New Zealand should actively coordinate their communication strategies.

The Australian Government supports the recommendation in principle, noting this is a matter for state and territory governments.

Australia has a robust framework for the regulation of gene technology, focused on protecting the health and safety of people and the environment. The regulatory system currently recognises state and territory governments implement moratoria legislation for genetically modified (GM) crops solely for marketing reasons. There is limited data on the effect of moratoria for marketing reasons, and the moratoria could impact our national transport routes and our national approach to trade. The Australian Government notes that after nearly two decades of scientific assessment by regulatory agencies world-wide, no health and safety issues associated with approved GM crops have been identified. Moreover, there is evidence that use of GM crops has resulted in reduced pesticide use in the cotton industry and moratoria on GM crops has contributed to the slowing of productivity in the cropping industry. Local and international experience has shown that co-existence of GM and conventional crops can be readily managed, without the imposition of additional state-based moratoria.

The intergovernmental Gene Technology Agreement (the Agreement) between the Commonwealth, state and territory governments sets out a common understanding regarding the establishment of a nationally consistent regulatory scheme for gene technology (the Scheme). The Legislative and Governance Forum on Gene Technology (LGFGT) is the ministerial forum charged with overseeing the Scheme, and has recently completed a review of the Scheme, in accordance with the Agreement. The LGFGT has responsibility for coordination with other ministerial councils on matters relating to gene technology.

Noting that decisions about moratoria for marketing reasons are the responsibility of state and territory governments, on 11 October 2018 all Australian governments, through the LGFGT, endorsed the Review of the National Gene Technology Scheme. The LGFGT agreed to all

recommendations, including Recommendation 18 that ‘states and territories give ongoing consideration to the economic effects, value and scope of moratoria’, and endorsed a five year action plan to implement their recommendations. In this context, the Australian Government welcomes the current reviews of their moratorium being undertaken by the South Australian Government, and the upcoming moratorium review being planned by the Tasmanian Government.

The Australian and New Zealand joint food regulation system is a strong system based on scientific evidence and expertise that acts to protect the health and safety of consumers. Communication with the public on regulatory matters including risk assessments is an ongoing activity undertaken by national regulators. The Australian Government is committed to continue working with all parties to ensure communications in this area is both coordinated and effective.

Agricultural and veterinary chemicals

Recommendation 7.1

The Australian Pesticides and Veterinary Medicines Authority should make greater use of international evidence in its decisions on agricultural and veterinary chemicals (including by making greater use of data and assessments from trusted comparable international regulators). Reforms currently underway in this area should be expedited.

The Australian Government supports the recommendation.

The Australian Pesticides and Veterinary Medicines Authority (APVMA) released guidance—most recently updated in June 2018—for the submission of international data, standards and assessments. This is supported by a legal direction to the APVMA staff from the Chief Executive Officer about the use of this information. The direction requires APVMA staff to maximise the use of international assessments supplied with an application in order to improve the efficiency and timeliness of APVMA’s assessments.

Recommendation 7.2

The Australian, state and territory governments should implement a national control-of-use regime (including harmonisation of off-label use provisions) for agricultural and veterinary chemicals by the end of 2018.

The Australian Government supports the recommendation.

The Australian Government has been working with state and territory governments to implement the Council of Australian Government’s (COAG) 2010 direction to harmonise agricultural and veterinary chemical regulation. Harmonised models for requirements for training and licensing of fee-for-service operators and users of restricted chemical products and schedule seven poisons, and record keeping for agricultural chemicals were finalised in 2017-2018. Full national implementation is required by 2022.

The Australian Government continues to work with the state and territory governments to harmonise off-label use. A proposal for harmonising agricultural off-label use is expected to be considered by the Agriculture Ministers Forum in 2019.

Transport

Recommendation 9.1

States and territories that are participating in the Heavy Vehicle National Law should, as a high priority, increase the number of routes that are gazetted for heavy vehicle access. Permits should only be required in locations where there are significant risks to public safety or infrastructure that must be managed on a case-by-case basis.

There are arrangements in South Australia to allow road users to propose and undertake road route assessments for gazettal, and in Queensland to fund road assessments and gazettals on both state and local roads. These arrangements should be considered for adoption in other jurisdictions or expansion in respective states.

The Australian Government supports the recommendation, noting this is primarily a matter for state and territory governments.

As noted in the Productivity Commission's report, COAG's Transport and Infrastructure Council (the Council) and the National Heavy Vehicle Regulator (NHVR) are progressing work relevant to this recommendation. The Council agreed in November 2014 to an objective of 'as of right' access for PBS Level 2A B-Double heavy vehicles to all key freight routes, and increasing that access threshold over time. The NHVR is undertaking significant work to gazette more road networks, with an extensive ongoing work program. This work program is focused on delivering more as-of-right access arrangements and reducing the need for permit-based access. As of the end of October 2018, the NHVR had secured 1,921 pre-approved routes and initiated 723 route gazette requests covering 316 road manager areas, a 16.5 per cent increase for the same period the previous year.

The NHVR is working with jurisdictions such as South Australia and Queensland, to consider local arrangements that can be scaled up in order to deliver greater national consistency and benefit. The Australian Government notes the South Australian Government's assessment that its recent improvements to heavy vehicle road access have led to savings of about \$40 million to date. The success of the NHVR in promulgating such savings across other jurisdictions depends on the active cooperation of participating jurisdictions.

Recommendation 9.2

The Australian, state and territory governments should pursue road reforms to improve the efficiency of road infrastructure investment and use, particularly through the introduction of direct road-user charging for selected roads, the creation of Road Funds, and the hypothecation of revenues in a way that incentivises the efficient supply of roads.

The Australian Government supports the recommendation.

All governments are progressing work to accelerate heavy vehicle road reform in consultation with industry, and to investigate the benefits, costs and potential next steps of options to introduce cost-reflective road pricing for all vehicles, as directed by COAG in December 2015.

Phase One of the COAG Transport and Infrastructure Council's heavy vehicle reform road map is in place and is delivering improved transparency around road expenditure, investment and service delivery through the publication of heavy vehicle infrastructure asset registers and expenditure plans.

In November 2018, the COAG Transport and Infrastructure Council agreed to detailed work being undertaken by jurisdictions on a package of measures that will deliver further benefits for industry, for consideration by Ministers in 2019. The next phases of heavy vehicle reform focus on national service level standards for roads and a forward-looking cost base to support the potential establishment of independent price regulation, while considering the needs of users of less-travelled roads. These measures will provide the key foundations of a reformed system. The design of these institutional and governance measures are the subject of ongoing collaboration between the Australian Government and state and territory governments with input from industry and other stakeholders.

The Australian Government is progressing two initiatives to engage heavy vehicle operators in heavy vehicle road reform: the National Heavy Vehicle Charging Pilot and the Business Case Program for Location-Specific Heavy Vehicle Charging Trials. Trials are an important and practical way to test improvements to the current user charging system.

Recommendation 9.3

The National Heavy Vehicle Regulator, road managers, and relevant third parties (such as utilities and railway companies) should ensure that requirements for moving oversized agricultural machinery are proportionate to the risks involved. To achieve this they should, wherever possible, make greater use of gazettal notices or other exemptions for oversized agricultural machinery, and issue permits that are valid for longer periods and/or for multiple journeys.

The Australian Government supports the recommendation.

Agricultural equipment has a different risk profile and has different patterns of time and movement on the road network. In recognition of this, and consistent with the COAG Transport and Infrastructure Council's priorities, the National Heavy Vehicle Regulator (NHVR) is finalising work on the development of a National Class 1 Agricultural Vehicle and Combination Notice which will offer significant productivity and regulatory benefits to the agricultural industry, by reducing permit-based access in favour of gazetted access.

It is particularly important that all jurisdictions align to a single common set of allowances and conditions under the notice. It is also important to align other legislative requirements that affect this notice that are outside the National Heavy Vehicle Law (such as licencing and conditional registration) to adopt a consistent standard for operators, which are balanced to the agricultural task without prohibitive policy barrier placed upon the sector.

This work complements measures including the B-double and Road Train notices, and Higher Mass Limit Declaration, which also provide benefit as these vehicles are also commonly used to transport agricultural commodities (e.g. grain, cotton, hay bales). This notice aims to include exemptions for local movements and the shift towards gazetted access over permitted access. The Australian Government encourages participating jurisdictions to participate actively in this process so that the benefits of the reform can be delivered fully and speedily to the agriculture sector.

As an example, in September 2018 the Prime Minister and the Deputy Prime Minister announced the National Class 3 Drought Assistance Dimension Exemption Notice 2018, which applies to the transport of baled or rolled hay, and straw in drought-declared areas. This notice allows heavy vehicles up to 4.6 metres height and 2.83 metres wide access to the existing state-controlled road networks.

Following the completion in September 2018 of an Australian Government funded independent review of oversize and overmass vehicle access arrangements, the Deputy Prime Minister will work with Transport and Infrastructure Council colleagues to urgently progress actions to significantly reduce or streamline access permit requirements, particularly where it would support farmers in drought-affected areas.

Recommendation 9.4

The Australian, state and territory governments should review the National Heavy Vehicle Regulator (NHVR) as part of the planned review of the national transport regulation reforms. The review should:

- assess the efficiency and effectiveness of heavy vehicle regulations, including the scope to improve the allocation of responsibilities under the national system
- identify ways in which new funds allocated following the abolition of the Road Safety Remuneration Tribunal could best be used by the NHVR to improve road safety in all states and territories.

The Australian Government supports the recommendation.

The Australian Government notes the decision by the Transport and Infrastructure Council in November 2015 to request the Productivity Commission conduct a review on national transport regulatory reforms in 2019. The review will provide a timely examination of progress made by jurisdictions to improve the efficiency and effectiveness of heavy vehicle regulations since the National Heavy Vehicle Regulator's (NHVR) establishment in 2012.

As part of ensuring improved safety, reducing regulatory red tape and keeping costs to a minimum, the Transport and Infrastructure Council has agreed to undertake an independent assurance review of the NHVR to assess options for how regulatory services are delivered. The review will report at Council's first meeting in 2019.

In May 2018, Transport and Infrastructure Council ministers agreed to accelerate the commencement of a review of the Heavy Vehicle National Law (HVNL Review), to 2018-19.

The HVNL Review will be comprehensive, and will examine the fundamental elements of the HVNL, and make recommendations to deliver a more modern, performance-based law.

The Department of Infrastructure, Regional Development and Cities works with the National Heavy Vehicle Regulator to undertake consultation with industry and government concerning heavy vehicle safety initiatives. For 2018-2019 \$3.89 million was apportioned to support a range of heavy vehicle safety initiatives, including a range of educative tools for all road users to share roads safely with heavy vehicles, as well as education materials to help industry transition to amended Chain of Responsibility laws that took effect on 1 October 2018.

Recommendation 9.5

As a matter of priority, the Australian Government should amend coastal shipping laws to substantially reduce barriers to entry for foreign vessels, to improve competition in coastal shipping services.

The Australian Government supports the recommendation.

The government is committed to coastal shipping reform and amendments to the *Coastal Trading (Revitalising Australian Shipping) Act 2012* are currently before the Senate. The amendments are designed to ensure a safe, secure and efficient coastal shipping system is an integral part of Australia's national transport system.

Recommendation 9.6

Arrangements to support the biofuel industry—including excise arrangements and ethanol mandates—deliver negligible environmental benefits and impose unnecessary costs on farmers and the community. The Australian, New South Wales and Queensland Governments should remove these arrangements by the end of 2018.

The Australian Government notes the recommendation.

State-based arrangements are matters for the respective state governments.

Biofuels have long been part of Australia's fuel supply chain. Ethanol is a popular octane enhancer in fuel and when blended with petrol can be used in high compression engines which are more energy efficient. To the extent to which biofuels continue to deliver environmental benefits as clean sources of fuel, they will continue to play an important role in government considerations of a balanced fuel policy.

In the 2014-15 Budget, the government announced it would abolish grants programs supporting ethanol and biodiesel production, reduce the excise rates of 38.143 cpl that applied to both fuels to zero between 1 July 2015 and 30 June 2016 and that from 1 July 2016 the excise rates on both fuels would gradually rise over time with the final excise rate based on 50 per cent of the energy content-equivalent tax rate. Ethanol rises are occurring over five years and biodiesel rises are spread over 15 years.

Food regulation

Recommendation 10.1

The Australia and New Zealand Ministerial Forum on Food Regulation should amend its policy guidelines to make labelling of genetically modified foods voluntary, and Food Standards Australia New Zealand should remove the requirement in the Food Standards Code to label genetically modified foods.

The Australian Government supports the recommendation.

Food regulatory policy is cooperatively made by ministers from Australian and New Zealand government jurisdictions – the Australia and New Zealand Ministerial Forum on Food Regulation (the Forum). The government notes all members of the Forum are joint decision makers in the system and are responsible for approving food policy and considering all food standards approved by Food Standards Australia New Zealand (FSANZ).

In 2014, the Forum policy guidance acknowledged that labelling of foods produced or processed using a new technology following a pre-market safety assessment is not a public health and safety issue, but rather an issue of consumer interest. Like the Country of Origin labelling laws that are part of Australia Consumer Law, labelling laws that are implemented to meet consumer requirements and have no health impacts should be implemented through Australian Consumer Law.

The Australian Government will ask the Forum to consider this recommendation.

Recommendation 10.2

Food Standards Australia New Zealand should establish a standard defining the level of gluten in foods that can be generally tolerated by gluten-intolerant consumers, taking into account:

- the varying levels of gluten sensitivity among gluten-intolerant consumers
- scientific evidence on the risks of gluten to these consumers
- the costs and benefits to the Australian community.

The Australian Government notes the recommendation.

The current requirements for mandatory declarations and voluntary claims about gluten in the Australia New Zealand Food Standards Code (the Food Standards Code) protect public health and safety for individuals with coeliac disease. Coeliac disease is a serious condition that can result in a number of consequences if not well managed, which include: type I diabetes, gastrointestinal cancers, and auto-immune hepatitis. Elimination of gluten from the diet is the only method to control coeliac disease. The Australian Government notes the current scientific evidence for safe levels of gluten for all individuals with coeliac disease is inconclusive.

Given the inconclusive evidence regarding safe levels of gluten, at this stage, it is not appropriate for the current regulatory arrangements to be changed as they provide optimal protection of public health and safety. FSANZ will continue to monitor the science on this issue

and could investigate changes to the Food Standards Code subject to the availability of further scientific evidence.

More broadly, food regulatory policy is cooperatively made by the Forum. The government notes all members of the Forum are joint decision makers in the system and are responsible for approving food policy and considering all food standards approved by FSANZ.

Recommendation 10.3

Food Standards Australia New Zealand should remove the requirement for egg stamping under the Primary Production and Processing Standards for Eggs and Egg Products, unless it can be shown through a transparent and rigorous cost-benefit analysis that egg stamping is more effective and confers higher net benefits compared to alternative traceability methods.

The Australian Government notes the recommendation.

Egg stamping is required under the Primary Production and Processing Standard for Eggs and Egg Products (Standard 4.2.5) in the Food Standards Code. The Standard was developed in response to the large number of foodborne illness outbreaks suspected of being linked to eggs or egg products, particularly cracked and dirty eggs which have been a key cause of contamination. Food safety is the primary objective of the food regulatory system, and traceability is a critical response measure for products such as eggs that are often sold unpackaged.

The Standard was introduced in 2011. The government supports reviewing this standard in due course to determine whether it the most cost-effective measure to meet food safety objectives. In supporting this review, the government acknowledges food regulatory policy is cooperatively made by the Forum. The government notes all members of the Forum are joint decision makers in the system and are responsible for approving food policy and considering all food standards approved by FSANZ.

Recommendation 10.4

The Department of Agriculture and Water Resources and state and territory food safety authorities should determine whether regulatory food safety audits could be reduced by recognising compliance with commercial quality assurance programs.

The Australian Government supports the recommendation.

The government recognises that food safety auditing in Australia imposes a significant cost and resource burden on food businesses. The government also recognises that the major source of this burden is commercial auditing driven by supermarket retailers and quick service restaurants which seek supply chain compliance with their own commercial standards.

Where compliance with commercial standards must also satisfy statutory obligations, state and territory food authorities are encouraged to consider the appropriateness of waiving the requirement of food businesses to be statutorily re-audited.

The Department of Agriculture and Water Resources continues work to improve food safety audit arrangements for exported agricultural products, including with state and territory governments. This work has already removed duplication between the department's and state regulatory authorities auditing of export registered establishments.

The Department has also developed systems allowing commercial third party auditors to be accredited to conduct regulatory audits (where importing country requirements allow).

Competition regulation

Recommendation 12.1

The New South Wales Government should repeal the *Rice Marketing Act 1983*.

The Australian Government notes that this is a matter for the New South Wales Government.

Recommendation 12.2

The Queensland Government should repeal the amendments made by the *Sugar Industry (Real Choice in Marketing) Amendment Act 2015*.

The Australian Government notes that this is a matter for the Queensland Government.

Recommendation 12.3

The Australian Government should legislate to exclude agricultural commodity trading companies from being granted charity status and receiving the associated tax concessions.

The Australian Government notes the recommendation.

There are a wide range of entities that receive the benefit of charitable status across the Australian economy. The promotion of industry and commerce, and agriculture in particular, has been held by various Courts to be a charitable purpose. Any reform to the charitable status of such entities should be considered in the context of broader policy considerations regarding the regulation and taxation treatment of charities.

Foreign investment in agriculture

Recommendation 13.1

The Australian Government should increase the screening thresholds for examination of foreign investments in agricultural land and agribusinesses by the Foreign Investment Review Board to their previous level of \$252 million (indexed annually and not cumulative).

The Australian Government does not support the recommendation.

The foreign investment review framework aims to strike a balance between maintaining community confidence in foreign investment, protecting the national interest and ensuring that Australia remains an attractive destination for foreign investment by providing certainty for investors.

The Australian Government took office in September 2013 with an electoral mandate to reform the framework for foreign investment in agriculture and agribusiness. The Coalition election policy was developed to address growing community concerns about the apparent insufficient government oversight and lack of accurate data for increasing foreign investment in agricultural land and agribusiness. The Australian Government legislated to deliver on its election commitment, lowering the screening threshold from the former level of \$252 million (at 1 January 2015) for proposed foreign investments in agricultural land to \$15 million, cumulative, which took effect from 1 March 2015, and in agribusiness to \$55 million (indexed), in effect from 1 December 2015.

As part of reforms to the foreign investment framework, the Australian Government also introduced the first national Register of Foreign Ownership of Agricultural Land to provide more comprehensive and accurate data on the level of foreign investment in Australian agricultural land. The Australian Taxation Office (ATO) was given responsibility for collating data on the level of foreign ownership (freehold and leasehold) of agricultural land effective from 1 July 2015, with summary data to be provided in an annual report for public release. On 7 September 2016, the Treasurer released the first annual report of summary data covering the period of 2015-16, showing the total level of foreign ownership by land area at 30 June 2016, nationally and by state and territory, and the respective level of holdings of the top source countries. The third Agricultural Land Register Report was released on 20 December 2018, showing that the total proportion of foreign-owned agricultural land has remained steady at 13.4 per cent at 30 June 2018 (52.6 million hectares), compared to 13.6 per at 30 June 2017 (50.5 million hectares).

Increased screening of agricultural land, facilitated by lower thresholds, is better informing public debate about foreign investment in agricultural land. The average farming business is smaller (below \$2 million) than other businesses in the economy so applying the current general business threshold of \$266 million would exclude a large part of the agricultural sector from foreign investment screening.

Despite the lower thresholds resulting in a greater number of investments being screened, there is no evidence suggesting that the lower thresholds have deterred investment. Allowing for the increased number of cases being screened, interest has remained strong following the change. In 2016–17, the Foreign Investment Review Board approved \$7.0 billion worth of proposed investment in the agriculture, forestry and fishing sector (up from \$4.6 billion in 2015–16).

Recommendation 13.2

The Australian Government should request that the Productivity Commission, in its annual Trade and Assistance Review, analyse and report on the trends, drivers and effects of foreign investment.

The Australian Government supports the recommendation.

While there is currently public reporting and monitoring of foreign investment in Australia, there is merit in having the PC examine foreign investment with a broader whole of government lens in its annual Trade and Assistance Review, provided that it utilises existing data sources and does not duplicate current efforts elsewhere in government.

The Foreign Investment Review Board (FIRB) annual report summarises proposals considered in a given year but examines approvals data only, not actual investment or investments below the FIRB thresholds—it is envisaged that the PC Review would seek to fill these information gaps to take a holistic view of levels of foreign investment in Australia.

Recommendation 13.3

The Australian Government should set application fees for foreign investment proposals at the level that recovers the costs incurred by the Foreign Investment Review Board in reviewing proposals, and should closely monitor the fees to ensure no over- or under recovery of costs.

The Australian Government notes the recommendation.

The Australian Government introduced foreign investment application fees as part of its 2015 reform package, to ensure Australian taxpayers did not fund the administration of the regime. The fees were set at a level that was consistent with the cost of administering the framework. Application fees, which are imposed as taxes under the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015*, are already broadly set at cost recovery levels.

In the 2017-18 Budget, the Australian Government announced amendments to the foreign investment framework, including changes to the commercial fee framework to improve transparency and consistency. Application fees for proposed investments in agricultural land valued at \$2 million or less were lowered to a flat fee of \$2,000 (the previous application fee for acquisitions of this value ranged between \$5,000 and \$10,100). For investments above \$2 million and up to \$10 million, a flat fee of \$25,300 (indexed) was introduced (the previous application fee for acquisitions of this value ranged between \$20,300 and \$91,300). These changes came into effect on 1 July 2017.

These levels are indexed annually, and monitored by the Foreign Investment Division, Treasury, on an ongoing basis.