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Productivity Commission

PRODUCTIVITY COMMISSION

INQUIRY INTO REGULATION OF AUSTRALIAN AGRICULTURE

MR P LINDWALL, Presiding Commissioner
MR K BAXTER, Commissioner

TRANSCRIPT OF PROCEEDINGS

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MR LINDWALL: I've got some introductory remarks, so may as well get started. So good morning, everyone. Welcome to the public hearings for the Productivity Commission Inquiry into the regulation of agriculture. My name is Paul Lindwall and I'm the presiding Commissioner for the inquiry, and my fellow Commissioner here is Ken Baxter.

The inquiry started with a reference from the Australian Government late last year and covers the regulations that have a material impact on the competitiveness and productivity of Australian agriculture. It has examined regulations at all levels of government. We released an Issues Paper in December last year and have talked to a range of organisations and individuals with an interest in the issues.

We then released a Draft Report on 21 July, just after the election campaign concluded and have received over 100 submissions and more than 1000 personal responses and views since the release of the Issues Paper. We are grateful to all of the organisations and individuals who have taken the time to meet with us, prepare submissions and appear at these hearings.

The purpose of these hearings is to provide an opportunity for interested parties to provide comments and feedback on the draft report. Today is the second hearing for the inquiry. We'll be continuing hearings in Wagga tomorrow, Sydney on Friday, Canberra next Monday, Toowoomba on Tuesday next week, Brisbane on Wednesday, and Townsville on Thursday. Ken and I were in Perth yesterday.

Formal submissions to the draft report are invited, particularly, preferably by the end of August. I should add to that by the way that the final report will be given to the government on 15 November. So the closer that you put it in to the November deadline, the more unlikely it can be used to help influence our decisions.

We'll then be working, as I say, towards completing a final report to be provided on 15 November. Participants and those who have registered their interest in the inquiry will automatically be advised of the final report's release by the government which may be up to 25 Parliamentary sitting days after provision of the report to the government.

We like to conduct all hearings in a reasonable informal manner, but I remind participants that a full transcript is being taken. For this reason, comments from the floor cannot be taken. But at the end of the day's proceedings, I will provide an opportunity for anyone who wishes to do so to make a brief presentation, and that might include commenting on previous comments.

5 Participants are not required to take an oath, but are required under the Productivity Commission Act to be truthful in their remarks. They're welcome to comment on the issues raised in other submissions and by other hearing participants. The transcript will be made available to participants and be available from the website following the hearings. Our website is www.pc.gov.au. Submissions are also available on that website.

10 For any media representatives attending today, some general rules apply. Please see one of our staff for a handout which explains the rules. To comply with the requirements of this occupational health and safety legislation, you are advised that in the unlikely event of an emergency requiring the evacuation of this building, you should follow the exit signs to the nearest stairwell and don't use the lifts. Please follow the instructions of floor wardens at any times. If you believe you would be unable to walk down the stairs, it's important that you advise the wardens who will be able to make alternative arrangements.

20 Participants are invited to make some opening remarks, preferably of no more than about 5 minutes. Keeping opening remarks brief will allow us the opportunity to discuss matters in greater detail, and I think our first participant is now Charles Kovess from the Australian Industrial Hemp Alliance. So I welcome him to come up.

25 **MR KOVESS:** Mr Commissioner or Mr Lindwall?

MR LINDWALL: No, you can just - if you're happy to be informal, yes.

30 **MR KOVESS:** (Indistinct)

MR LINDWALL: Yes, and Charles, welcome.

MR KOVESS: Thank you.

35 **MR LINDWALL:** So if you could just say your name and the organisation and then, perhaps, give us a brief introduction?

40 **MR KOVESS:** Thank you. I'm Charles Kovess. I'm the committee member of the Australian Industrial Hemp Alliance. I'm also CEO and international marketing director of Textile and Composite Industries, manufacturers of the world's best hemp and bast fibre processing machinery.

45 The reason why I wanted to make a submission today representing the

5 hemp industry is that TCI has been in existence for - as a company, the people behind it for 22 years. Founded by a man called Adrian Clarke, involved in agriculture all that time. He got involved in hemp from a deep philosophical base that is relevant to this hearing and the regulation of agriculture in this country.

10 It comes from a base that agriculture, the future of agriculture in Australia is crucial to human freedom. So one example of that, if agriculture doesn't work and everybody moved to the city, our view is that we're all in trouble. The public perception, and the Financial Review keeps driving this argument that only large corporate farming can succeed in Australia. From a TCI perspective, we say that's a lie, that vast monoculture, vast corporations is not the way for Australia's future.

15 So Adrian Clarke, in 1994 said, "What is the best crop for Australia and the planet?" He discovered it was hemp, industrial hemp, cannabis sativa. There's a lot of confusion around hemp and, fortunately, there's now good conversation around medicinal cannabis. The Victorian Premier has legalised it, New South Wales Premier has. But there's a lot of confusion and that confusion is deliberately created and we're concerned that State Governments, for example, Northern Territory Government, South Australian Government have still not legalised the growing of hemp.

25 Now, cannabis sativa can be marijuana, can be hemp. I think the best metaphor is in rugby or in football terms, that human beings play football. They're homo sapiens, the same species, but some people are 6 foot 8 and some people are 5 foot 2. That's the difference between hemp and marijuana. THC levels.

30 So 22 years ago, Adrian Clarke says "Why is hemp not being grown?" For 10,000 years hemp was proven to be a magnificent agricultural product. The answer was processing of the plant. So he said, "What's the problem with processing?" The word that I urge you Paul and Ken to bear in mind is this word called "retting". In Europe, in America, right around the world, hemp is processed by retting.

40 We have developed a machine, and the pictures are in our submission. We have developed a machine that overcomes retting. So in half an hour we do what used to take six weeks to six months. It's a massive productivity gain. That work has been the genesis of the industrial hemp industry in Australia. Now it is a cottage industry. It's a cottage industry because regulation has slowed it down.

45 In 1997, Jeff Kennett allowed hemp trials to happen in Victoria and

then the law was changed in 1998. The regulations in Victoria - and other submissions have been made specifically on the regulations, but each State has ridiculous regulations that allegedly are to protect the public from cannabis and from people growing marijuana.

5

Please note you cannot confuse hemp from marijuana. Anyone who says anything to the contrary is talking nonsense. The problem is that DPI, Governments, like to listen to these ideas. Jeff Kennett was a visionary, legalised it. The Labor Party won the election in 1999 and then the regulations, the process of the regulations meant that no hemp was grown in Victoria until 2010.

10

I'm nearly done with my introductory statement. We see hemp as a magnificent opportunity. Why I wanted to make this submission was for you, as Commissioners, to understand this extraordinary opportunity. Now this is a global opportunity for Australia. It's a global opportunity for farmers. Adrian Clarke said "If farmers can make money" - and look at what's happening with the dairy industry now - "If farmers can make money, they will stay on their farms. Their families will stay in those communities. The lives that people live in those communities will be enhanced. Australia's health and productivity will be enhanced". That was the driver.

15

20

This has been so difficult, and I assure it's been difficult, that Adrian Clarke died last October aged 68, sadly. The stress - had cancer three times. The stress of the fight of the blockages have been very difficult. But I'm now playing the role of CEO. His younger brother is the executive chairman. We have helped to re-vitalise this industry for Australia.

25

30

The alliance is a group, an Australia-wide group, hoping to turn hemp from a - in fact, committed to converting hemp from a cottage industry to a mainstream industry. The regulations involved, the State regulations versus Federal regulations versus the opportunity to expand globally, to send seed globally, to send fibre globally, they are all issues that are going to help or hinder this industry.

35

One idea was up in Dubbo two years ago, Dubbo cotton growers. They say, "Can we grow hemp?" We say, "Yes". "What do we do with the hemp?" Our machine enables the most magnificent fibre to be produced. You can use that fibre to replace fibreglass. You could make fence posts from hemp fibre and resin, natural resins. All of the fence posts around Dubbo area could be made out of locally grown hemp.

40

The opportunities for Australia, the job creation opportunities, the

45

5 economic growth opportunities for Australia and then globally, are simply extraordinary and hemp is the way to do it. There's 10,000 years of history. What we ask for is that Australian Government, State and Federal, stop looking for reasons why hemp should be blocked and look for reasons why it should be made easily able to be grown. Thank you.

10 **MR LINDWALL:** Thank you, Charles. I can see that hemp has a number of different uses. It can be used to make particle board, it can be used for rope and a whole lot of other uses.

MR KOVESS: This shirt can be made out of it. Everything you're wearing could be made out of hemp.

15 **MR LINDWALL:** Yes, indeed. Then, of course, there's medicinal cannabis and recreational cannabis.

MR KOVESS: Yes.

20 **MR LINDWALL:** Usually governments, of course, are concerned more about that end than the former end. Is there a way of growing hemp with lower THC levels so that it doesn't need to be regulated to the way that Governments wish to?

25 **MR KOVESS:** There is absolutely no difficulty in growing hemp with low THC. At the moment it's between 0.5 per cent and 0.3 per cent allowable. Marijuana, good marijuana, I am informed - I've never been able to smoke so I haven't even had the experience of pot, is between 15 and 25 per cent THC. It's a massive difference in THC levels between what's good marijuana and hemp. You could go up to five per cent THC. 30 It's not worth smoking. It's a total waste of time.

Now the other issue with medicinal cannabis, medicinal cannabis can be high in THC or low in THC. It's still cannabis oil. That's one of the reasons why it becomes confusing.

35 **MR LINDWALL:** Okay, yes.

40 **MR KOVESS:** So we say that the Government should seriously look at not being so prescriptive about this because if you want to produce marijuana, you cannot produce hemp. We're talking about hemp and the industrial uses of this magnificent product. I know submissions have been made around hemp food.

45 **MR LINDWALL:** Yes.

5 **MR KOVESS:** We point out again that Food Standards ANZ for 10 years has been recommending the legalisation of hemp foods in this country and COAG for 10 years has been listening to police saying that people on the street can't understand the difference between hemp food and marijuana. That is such a disgraceful comment that keeps being published. It makes our blood boil.

10 **MR BAXTER:** Can I just come to that point, is the genus of plant marijuana the same as hemp or is there - - -

MR KOVESS: Yes.

MR BAXTER: It is the same?

15 **MR KOVESS:** Cannabis. Yes.

MR BAXTER: They're the two same plants?

20 **MR KOVESS:** Yes, cannabis sativa, but they're 150 different seeds.

MR BAXTER: Right.

25 **MR KOVESS:** So that's very confusing. But cannabis sativa - that's why it's good to think of cannabis as like human beings: some have high THC, human beings have high height; or low THC, they're short.

30 **MR BAXTER:** If I can, if I may, my understanding is that in Tasmania, the Tasmanian Government agreed to the commercial cultivation of opium poppy and it's done under regulation set by that state. It's done in open fields, but with obviously fencing around it. I haven't looked at the regulatory regime that applies to the opiate in Tasmania, but I would presume that sets a precedent for the sort of arrangements that could be made as a starting point at least for the introduction of hemp production?

35 **MR KOVESS:** No hemp is being grown in every state except Northern Territory and South Australia.

MR BAXTER: Right.

40 **MR KOVESS:** So at the moment Victoria Government with which we're - I'll put these down because I'll got to get a better reception. Victoria Government says you can grow it, it just - not on a main road. So that's the only regulation.

45 **MR BAXTER:** Right.

5 **MR KOVESS:** Secondly, you can't be convicted. So it's quite an inexpensive cost. "Just don't grow it on a main road because we don't want people thinking that you're growing marijuana". Once again the leaves are similar. A hemp crop looks like a bamboo crop. I have a beautiful picture on my submission of what that looks like.

MR LINDWALL: Yes, saw that.

10 **MR KOVESS:** Whereas a marijuana crop is a bushy plant. It's the buds and the flowers from which the THC is extracted.

MR BAXTER: Right.

15 **MR KOVESS:** So any policeman who says, "Oh, no, we need" - "We can't make the distinction", is just a nonsensical statement.

20 **MR LINDWALL:** What are the principal regulatory changes you would like to see that would unleash the potential that you're stating?

MR KOVESS: Well clearly around the legalisation of hemp food. There's a wonderful opportunity.

25 **MR LINDWALL:** Yes.

MR KOVESS: Secondly, the licensing regime to liberalise that - even to allow people who have got criminal convictions, it doesn't matter what it's for, because you cannot confuse hemp growing with marijuana. That's our position.

30 **MR LINDWALL:** Yes.

35 **MR KOVESS:** Whereas regulations are presently structured that we cannot let anybody involved in hemp - grow hemp who has had any criminal problems. You cannot get high on hemp.

MR LINDWALL: No, no, I can understand that.

40 **MR KOVESS:** So that's the regulations though.

MR LINDWALL: But I'm just saying, from a regulation point, are you talking about having a common THC level at which this - - -

45 **MR KOVESS:** No. The - - -

MR LINDWALL: No?

5 **MR KOVESS:** Sorry. Well the submission that we would make is that anything less than 5 per cent - no one's interested in THC levels below 5 per cent of those who want to use it as a drug.

MR LINDWALL: So you would say that you would consider anything below 5 per cent is a reasonable crop?

10 **MR KOVESS:** Totally acceptable.

MR LINDWALL: And it should be totally deregulated there?

15 **MR KOVESS:** Absolutely. Totally deregulated. Secondly, the DPI, the State Agricultural Departments come out and they - you have to pay - the farmer has to be them to test - this ongoing testing of the crop to make sure that you're not seeking up on the THC levels, and "if you're over 0.3 per cent, we're going to destroy your crop".

20 **MR LINDWALL:** It varies by state, I understand.

MR KOVESS: Yes, I do too. I'm not across it for each State. "But we will destroy your crop if you're not so careful". So once again it's this heavy handed regulatory regime, allegedly, to protect the public.

25
30 Now have a look at what we're now seeing that, in fact, the health benefits of marijuana itself are extraordinary. So one starts to look at this, rethinking this whole question around regulation. Why are we doing this? That's what this whole question of regulation, the Government has said, "We've got too much regulation". This is a beautiful example of it.

35 The second is to enquire why South Australian and Northern Territory States haven't legalised it. It's nonsensical to farmers there who are struggling why they can't freely grow hemp.

MR LINDWALL: Have you been in touch with the governments of those states?

40 **MR KOVESS:** Yes, we have. Yes, the Northern Territory.

MR LINDWALL: What type of response do you get when you say, "This is nonsensical. Why don't you do something about it?"

45 **MR KOVESS:** Yes, we have made submissions to the Northern Territory inquiry on whether or not to establish hemp. What the Northern

Territory Government is doing is saying “We’ll do a trial crop on hemp to see if it will grow”. Despite the evidence from all - - -

5 **MR LINDWALL:** I think people know it grows, yes.

MR KOVESS: You know, from a commercial perspective, the question that I put is whether public servants are wanting to slow this industry down through regulation to keep their jobs. That’s the question that we put. What regulations particularly need to be in place? What we say is that listening to the police on this issue is a very dangerous - sorry, is a very inaccurate way of finding out what is useful for Australia’s future productivity.

10 **MR LINDWALL:** Would you see a regulatory regime where’s there’s a common THC level above which is regulated in a more restricted way, as is in some States, and then below that level is pretty unrestricted?

MR KOVESS: Yes, that could work.

15 **MR LINDWALL:** Would that work? Yes.

MR KOVESS: That could work.

20 **MR LINDWALL:** You testify that’s about 5 per cent. I think yesterday we had - it was about 1 per cent one person said.

25 **MR KOVESS:** Well what I’ve been told, and I’m not a marijuana - any marijuana users in the room? We don’t know. But, you know, I’ve been told between 15 and 25 per cent. If you grow hemp next to marijuana, the hemp pollen will reduce the THC. Adrian Clarke - he would testify if he were alive - when he was in America, he was told he would be killed if he grew a hemp crop beside marijuana. The more hemp that’s grown, the less marijuana will grow nearby.

30 **MR LINDWALL:** Okay. What about the processing of it? I think you mentioned the retting and you managed to get some new technology to do away with that.

35 **MR KOVESS:** Yes. We’ve built a machine that is now ready for selling around the world. It changes the economics of hemp. You see, because the other issue around productivity - I know we’re talking about regulation.

40 **MR LINDWALL:** Yes.

45

5 **MR KOVESS:** But this is about agriculture, and cotton destroys the environment, the pesticides, the herbicides. That's why hemp is the solution. But hemp was more expensive. Hemp fibre for textiles was six to 10 times more expensive than cotton. Our machine brings that price down to - close to parity. We don't want to sell hemp fibre at the same price as cotton fibre, but it can now compete. So globally - this is a useful number. This is the opportunity for Australian fibres that at the moment only 200,000 tons of hemp fibre is produced for textiles. The annual cotton production is 29 million tons. The annual fibre consumption for textiles is 89 million tons per annum.

MR LINDWALL: Yes.

15 **MR KOVESS:** So that means, hemp 200,000 tons out of 89 million tons. So our vision and for - Australia can be a leader in this, you know. The reputation that we want is that our regulation is such that people around the world go "Australia is the centre of hemp growing". The climate impact, the reduction of CO2s into the atmosphere from less pesticides, less herbicides, improved soils from hemp growing will have a big productivity impact on our agricultural land.

20 **MR LINDWALL:** I mean what we're talking about, of course, is what regulations would restrict that, then whether they're grown or not in terms of the size of the economy compared to other crops such as cotton, will depend upon the economics obviously. Would you like to say anything about, like the use of water and fertilisers and other efficiencies in terms of hemp production compared to equivalents?

25 **MR KOVESS:** Yes, absolutely. My favourite number that I have in my nice little book here which, I think what I will do is I will email this to you, this book that we've produced.

MR LINDWALL: Okay. Good.

30 **MR KOVESS:** This is cotton versus hemp. Cotton needs twice as much land as hemp. Cotton needs 9700 litres to grow one kilogram of fibre. Cotton pollutes water and leaves the land scorched. Cotton accounts for 25 per cent of all pesticide use worldwide. Hemp produces twice as much fibre per acre, only uses 2000 litres of water. So uses 80 per cent less water. It returns up to 60 per cent of the nutrients to the soil, so you can keep growing hemp without needing nutrients. It can be grown on the same land consecutively for 14 years. It's extraordinary how - the benefit to farmers of growing hemp versus cotton.

40
45 So if the regulations are eased, if the nonsensical regulations are eased

and that also includes regulations for export purposes of both seed and fibre and food, then farmers are going to be much more open to saying, “Hey, hemp is viable opportunity”. As the hemp alliance, we are trying to get - we are working on getting farmers more and more interested in this.
5 The big gain, from an Australian perspective, is farmers say “We will grow, if the markets will buy”. The problem is the markets say, “You’re too small. We can’t get serious until you’re growing”.

10 What the alliance is wanting to do and TCI as a company is wanting to do, is to make a market. So our strategy is to drive market demand rather than farmer push. That’s the vision that we have, and educating companies that want to have less of a negative impact on the environment, they’re the companies that we’re talking to so that Australian farmers can successfully grow. They won’t want to grow that if there’s too much
15 regulation.

MR LINDWALL: I’ve got one more thing, Ken, and that is that you’ve just spoken, of course, about the import side of production and costs being relatively efficient and so on. On the other side, the sale side, the product
20 that you produce would it be, as a consumer, would I see a shirt being equivalent to a cotton shirt, or superior, or inferior in some way?

MR KOVESS: Paul, that’s a beautiful question that you ask and I commend you to have a look at a movie called “The True Cost”. A
25 documentary, “The True Cost”. It’s horrific what we, as Australians, are doing to buy T-Shirts to buy \$10 at Target.

So globally the concept of fast fashion is driving cotton production, cotton consumption, wage rates of people in Bangladesh and Cambodia
30 and the slave labour conditions - two, three years ago the movie - the documentary talks about the 1000 people who died in Bangladesh from that collapsing building. Adidas quoted in this movie “Record profits last year” has then moved its production from China to Cambodia to save a miniscule amount of money.
35

So globally there’s this pressure to make it cheaper, cheaper, cheaper, as if that’s a good thing. I’m horrified by my friends who have teenage
40 daughters who say, “I’ve worn that T-Shirt three times. I’m not going to wear it any more”.

So this question of price, I suggest to you that this - making everything cheaper, cheaper, cheaper is not good for the planet, is not
45 good on any thinking basis, and that hemp - comparing hemp to chemical cotton is like comparing a Lamborghini to a Holden. So we’re not going to get caught up in that. However, we can produce, close to parity of

cotton, but we're not going to sell this magnificent fibre for a cheap rotten price.

5 One other point that's really stuck in my mind when I first got involved in hemp four years ago, armies around the world would prefer hemp uniforms because if you get shot in a cotton uniform and the bullet goes through, if it doesn't kill you, you will suffer more from the infection of the cotton fibres in your body than the bullet.

10 Hemp is a natural antibacterial. Hemp you can wear your shirt, Paul, for 10 days. I've done it on numerous occasions. There will be no body odour after 10 days. Hemp is such a magnificent product for the planet. If the Commission understand why this is such an opportunity, then there's this desire to deregulate as much as possible. We say the fear of
15 deregulation has been driving the attitude to anything cannabis and that's why I'm making this submission.

MR LINDWALL: Okay. Ken, did you - - -

20 **MR BAXTER:** No, I've got nothing further to add.

MR KOVESS: Thank you.

MR LINDWALL: Thank you then, Charles. Unless you - do you have
25 any - - -

MR KOVESS: I can go for another hour, if you would like.

MR LINDWALL: I'm sure. You've got about three minutes if you want
30 to say anything else that I've missed - that we might've missed, perhaps, because I have to keep everyone to pretty good time.

MR KOVESS: Absolutely. So globally, I reiterate that Australia, our
35 attitude to regulation will decide whether or not significant investment funds come into Australia from right around the world. We're having conversations with 30 countries around the world.

The other thought that I put in to the Commission's head to really
40 understand the big picture, which is what drives us. We're a globally focussed company, but it's what we do in this country. Only 30 per cent of the world's population today can afford to buy a cotton shirt. The 70 per cent that can't, including Africa, India, all of the vast amount of people who can't afford to buy that, we say that hemp is the solution to that. Australian businesses, if we get this hemp industry going, well we
45 can then help African farmers do the same thing. We can help Indian

farmers do the same thing. That's what excites us.

5 In India, I bring to your attention, that the constitution guarantees the right to grow cannabis, but every state - and I think there are got 27 states in India - every state puts in regulation like we do that mean Indian farmers can't grow hemp. So that's the power of regulation.

MR LINDWALL: Is hemp grown in New Zealand by any chance?

10 **MR KOVESS:** Hemp is grown in New Zealand. By the way you can go to your health food store and buy hemp seed oil and you can - there's a sign on it, "This is not for human consumption". But New Zealand is interested in hemp. We have an agent in New Zealand and we see New Zealand as being a wonderful hemp opportunity as well.

15 **MR LINDWALL:** You are basically foreseeing the hemp economy growing quite substantially, provided the regulatory constraints are pulled away to some extent.

20 **MR KOVESS:** I certainly do.

MR LINDWALL: Thank you very much, Charles.

25 **MR KOVESS:** Thank you, Ken. Thank you everybody. Thank you for listening.

30 **MR LINDWALL:** I think I was a bit misleading then because - sorry, we are finished Charles, but there is a bit of a gap, isn't there? The next one is actually at 10.30 so there is an opportunity - you could have gone on but no, no. Is there anyone here in the audience who is not registered to speak who would like to provide a hearing - thanks very much Charles.

35 **MR BAXTER:** Is there anybody here who has made a submission and would be speaking later in the day that we could perhaps bring forward?

MS KENDALL: I am due to speak at 11.15.

40 **MR LINDWALL:** What do you think, my team, is that okay? Yes, why not? You are Jan, is that right?

MS KENDALL: Yes.

MR LINDWALL: Hello, Jan.

45 **MS KENDALL:** I am expecting my husband.

MR LINDWALL: Do you want to wait for that because you don't have to, you can go back at 11.15. We can all have a cup of tea. Which do you prefer?

5

MS KENDALL: I don't mind.

MR LINDWALL: You may as well wait for your husband to come. There is still a bit of time.

10

MS KENDALL: He is only moral support.

MR LINDWALL: I think that is important, isn't it?

15

MR BAXTER: I think why don't we proceed and if your moral support arrives he can then add to it.

20

MR LINDWALL: All right, that is fine. I should say before Jan sits down that we do always offer an opportunity for those who have not registered to speak, to comment, and since there is a bit of a gap now and the next one is at 10.30 and then we have something which will be at 11.15, then 11.30 and then 12 o'clock and then there is a lunch break and then 1.30 and then 2.15 and then 3 o'clock and then I think - we have got limited time after 3.30. We might have about half an hour at most, I would say, so take the opportunities when they are available is what I say.

25

Welcome, Jan, would you like to say your name and perhaps talk about what you would like to say to us today.

30

MS KENDALL: My name is Jan Kendall and I am here as an individual. I put a submission in and also a supplementary submission, so I thought it was an opportunity to speak and tell you why I am so interested in the subject. I strongly support draft recommendations 5.1 and 5.2 of the draft report and I will outline my knowledge and experience. I lived and worked for the first 18 years of my life on a dairy and beef farm in Northern Victoria and I visited often until I was 35 when the farm was sold.

35

The farm was small but provided a good living. It was not an intensive farming enterprise. The animals were well cared for and received veterinary attention when deemed necessary. I saw all sorts of farming practices first hand. As a teenager who wanted to be a vet, I travelled to surrounding farms with the local vet as an observer. I saw the distress of calves having their horn buds destroyed with hot iron cautery. I saw the de-horning of older cattle. I saw the castration of young animals

45

by Burdizzo. That is a device with a clamp designed to break the blood vessels leading to the testicles.

5 All these procedures took place without pain relief. I saw five day-
old bobby calves carried onto trucks to markets. They are young. Their
new born wobbly legs could hardly hold them up. I saw cows searching
for and bellowing for days after their new born calves were taken for
slaughter. One very hot weekend I saw sheep in an abattoir holding pen,
10 they were heat-stressed without any shade before the slaughter on
Monday. I did report that to my local MP but I am not sure if that was
followed up.

15 The foregoing are all normal agriculture procedures and activities and
I saw that growing up as a young girl on the farm. Few codes of practice
are mandatory and there is no way of knowing what happens on individual
farms or behind the gates of intense farming businesses. I have two
highlights briefly that I want to highlight, dairy calves and live export.
First, dairy calves. My supplementary submission questions the science
behind the time off food standard for the transport of calves. It's now
20 legal for five day old baby calves to go without milk for up to 30 hours
between leaving the farm and their slaughter.

25 I know from experience that new born calves should not go 30 hours
without milk, let alone cope with being pushed around in markets and then
trucked long distances to be unloaded at the abattoir and penned. My
former husband was a Commonwealth government meat inspector in
various Melbourne abattoirs. He said the worst aspect of his work was the
baby calves awaiting slaughter, sucking his fingers because they were
starving. It's easy to describe the standards as being science-based but the
30 quality and impartiality of that research should be independent and beyond
reproach.

35 I now advocate for animals in my own way. I make submissions, I
write to newspapers, I donate money to animal advocate organisations. I
know plenty of people from both rural areas and the city who share my
views. They want to know where their food comes from and they want
reassurance that farm animals are well treated. I can't give them that
reassurance. When I talk to people about normal farming practices and so
called wastage in animal industries, they register disbelief. The New
40 South Wales Parliament is currently debating a bill to ban greyhound
racing, one reason being wastage, the number of greyhounds killed every
year.

45 In the dairy industry 700,000 unwanted male bobby calves are
slaughtered annually - wastage, and in the poultry industry millions of

5 unwanted male chicks are thrown alive into macerators or gassed. Again, wastage. If the community knew about this I think there would be a lot more vegans and vegetarians, that is for sure. I turn to live export which I want to see phased out. I am sad to say that dairy heifers from our farm were exported live in the 1970s and 80s for breeding purposes but they are eventually slaughtered of course when they have outlived their usefulness.

10 I am disappointed that your draft report gives credence to the argument that if Australia stopped live exporting, other lower welfare live exporters would step in. That is the industry line. That is the Department of Agriculture line. Live export is a business undertaken by lower welfare countries like India, Mexico, Somalia, Romania and Brazil. What is Australia even doing in this market? We are supposed to be innovative, first world. Australia is a first world country. It should be championing EU standards, or better still, those of New Zealand which stopped exporting any animals for slaughter on welfare grounds years ago.

20 The community has no trust in the live export industry. Why? One example, compliments of the Canberra parliamentary library's excellent live export chronology, exports to Vietnam started in 1999. ESCAS was applied in January 2013 and the sledgehammering exposed by Animals Australia, not by ESCAS or the industry, mind you, happened in 2016. Can anyone seriously believe that the industry didn't know about the traditional slaughter methods of sledgehammering in Vietnam back in 25 1999 when they first sent live animals there to be slaughtered? Unless it's picked up by animal welfare organisations it's just business as usual and let's hope they go away.

30 The live export chronology starts in 1830 and the live export industry hasn't progressed much from there in my opinion, welfare-wise or technology-wise. In fact it's worse because the cruelty is on a much larger scale. Live exporters whinge about their costs of regulation and compliance. What about the cost of live exports to the community, the taxpayers, the majority of whom oppose live export. Literally millions of 35 dollars of precious taxpayer funds are spent administering and picking up after live exports debacles. Again, I go to the library chronology for an example. In September 2015 \$30 million of taxpayer funds were budgeted for welfare counsellors in Vietnam, ironically, Malaysia, Thailand, China and the Middle East.

40 I would love them to send money to look after animal welfare in third world countries, but why do we have to send our animals there? It's the wrong example to be setting because by sending our animals we are saying it's okay, "You can treat them how you like and we will send a few counsellors". It's just not the way things should be done. Live export 45

cannot possibly be paying its way for taxpayers when it has to be propped up so much, not forgetting the salaries and on-costs of the live export public servants in Canberra. There is a huge department there. I know I have written to most of the managers of it, and their on-costs and salaries must be a huge cost.

Another point is that I don't trust the proposed LGAP scheme devised by LiveCorp and the MLA. I see it as an attempt to self-regulate. I see LGAP as the industry's way of restarting exports to the notoriously unreliable importer, Saudi Arabia, which rejects ESCAS because of sovereignty concerns. Saudi Arabia appears twice in the library's chronology for rejecting export ships on spurious claims of scabby mouth, but who knows what reason, because the vets never find any evidence of it, and one of those was the notorious Cormo Express scandal which brought about - I think that is when some sort of regulation was introduced for how animals are treated on live export ships.

The industry and some politicians love to denigrate animal advocates like me, as extremists, activists, greenies, unemployed ratbags or over-emotional city slickers ignorant of farming life. I don't think I am very scary. This attitude was never more obvious to me than the malicious treatment metered out by the coalition senators to Lyn White from Animals Australia who was a committee witness at a hearing about live exports in July 2011. I watched it on video at home. In my 30 years as a Hansard reporter I have never seen a witness vilified like that, and it was all done under parliamentary privilege. Despite this, the animal welfare movement is growing. It's made up of ordinary members of the Australian community like me who want to ensure that all animals, including farm animals, are treated humanely. They will never give up and neither will I.

I am here today because I want those sentient creatures to have a voice. They are living, breathing, intelligent beings who, I can attest to from personal experience, feel every minute of their pain and fear. Thank you.

MR LINDWALL: Thank you very much, Jan. Can I just clarify that you are arguing for higher animal welfare standards, but you are not arguing that there shouldn't be animal production for food consumption.

MS KENDALL: I am realistic. My farming background - I wouldn't be here, I wouldn't have done well in my life, but there are ways of doing it where the animals are treated humanely and live export is an example of something - from the ships to what happens to them over the other side, it's just completely unacceptable. It's a third world industry, it's not

something Australia should be doing. Yes. I choose not to eat products from animals. I live a sort of veganish existence because it's good for the planet, it's good for the animals, it's good for my health, but I am not hard line but I am a realist.

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MR LINDWALL: No, no, that is all right. If we go back to the part about what our recommendations were and also about practices. I think you could divide animal welfare practices, if I'm not mistaken, into those that are actually in the interests of the farmer himself or herself directly, because they actually reduce the cost of production and produce a higher quality product, if one could argue if the cow is under less stress, for example, its meat will arguably be better quality. Then there are other types of practices which might arguably be slightly more expensive than the traditional practices. We take the first which actually should be in the interests of the farmer themselves. Why don't you think farmers would do that? Is it just because of misinformation? Is it because they have done it this way for many years and their father did it and their father's father did it and all the rest of it.

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MS KENDALL: Yes, an element of that but it's cost. It's usually cost weighed up to, "It's only an animal. It's an object under the law". Farm animals are objects, they are not protected in the same way that dogs and cats are but there is no difference as far as sentience goes. They are just the same sentient beings.

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MR BAXTER: Can I just ask, the Companion Animals Act or the equivalent legislation in most of the states is fairly stringent, although there would be some question mark about how often and how regularly it's applied, why do you think there is a far stronger attitude to the treatment of companion animals as against the treatment of what I might call animals for livelihood?

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MS KENDALL: Simple. Because the animals are living in the home. They are sleeping in the beds. They say, "Fido has got such a lovely personality, he is just like a person", so that is the reason. It's understandable. The community is learning that farm animals do have personalities. I know this from feeding calves, having cows, pigs, all sorts of animals. Pigs are extremely intelligent and fun loving. I was reading an article recently about somebody who had adopted a pig and it was scampering around and diving in the bed and doing all sorts of things when it was a little pig. I don't know what will happen when it grows up but they were amazed because it was just like a dog. That is the reason.

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MR BAXTER: Second question. Have you had an opportunity to look at the New Zealand regulations in relation to both within New Zealand,

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the animal livestock operations under NAWAC, and also their total ban on exports for slaughter although they still export for breeding purposes.

MS KENDALL: Yes.

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MR BAXTER: And still export horses, obviously, for racing purposes. Have you had a chance to look at that and what is your view about the New Zealand structure?

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MS KENDALL: I am not a professional animal advocate, and there is so much to read and cover, but I am aware that New Zealand has a much better attitude in general to those sorts of issues than we do. I did listen to the Prime Minister - it was after the Indonesian crisis with all those dreadful slaughtering methods - he was speaking to Geraldine Doogue, I think. It was a very good interview.

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I think I have got a tape of it somewhere and I was just very impressed with the New Zealand attitude, and they just said because of all the welfare problems that keep coming up with live export of animals for slaughter, they just would not proceed with it, just like we shouldn't have proceeded with it back in 1985 when a Commonwealth committee examined it and said the animal welfare is - "It's too hard to deal with. We shouldn't proceed". But then we have - lobbying by the livestock industry.

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MR LINDWALL: New Zealand has also introduced recently some new rules around the treatment of bobby calves. Have you seen that?

MS KENDALL: No, I am not au fait with that.

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MR LINDWALL: If you have a chance to have a look it, you could provide some further comments in a submission if you wish to.

MS KENDALL: I will. Good. Yes.

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MR LINDWALL: Yes, that would be most helpful, I think.

MS KENDALL: All right.

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MR LINDWALL: In our draft report we posited to have a body which would be independent and it would have a role of building up the evidence, science based evidence and other evidence, on good welfare practices. It would have a role in informing farmers and the community in general about those welfare practices and it would also have a role about collecting in a validated way, community values about animal welfare

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which, as you know, change over time, and you support that - I think you indicated at the beginning of this.

MS KENDALL: Yes.

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MR LINDWALL: Have you thought about how that body could be constituted? What type of representation it should have and so forth?

MS KENDALL: I have looked at various models through the submissions that have already appeared. I would like to think it could actually - I would like it to be independent. It's no use having it under a government department, as far as I am concerned, so maybe statutory. It should cover all sorts of animals. It should be able to make decisions, I think. Recommendations can be put to one side, not acted upon. I don't think the present government will take kindly with that. It's in Labor Party policy to have an independent office and the Greens, of course, advocated - put forward a couple of bills.

MR BAXTER: Can I just - knowing that this is a matter that travels across Commonwealth and State boundaries, what your view is as to what attitudes states' governments might take on this, knowing there is a mix of Labor and coalition governments around the country.

MS KENDALL: I think it's why it's better to have a national - I just wish we had national everything, for everything we do in Australia because the states just complicate things so much. I would think a national body would be much better.

MR BAXTER: Excepting that the likelihood of total removal of states' governments for which you might have some support, I am just wondering, however, that they at the moment have the powers to deal with people who are breaching the principles and laws that exist in the states. In many cases they don't have adequate resources to do so. The reliance is placed on the RSPCA or equivalent. The likelihood of getting a Commonwealth government, either current coalition or Labor, to take over both the principles and implementation, I suspect, is probably pretty remote.

Is an interim measure the sort of pay structures that New Zealand has got and then for the states to take a more active interest in and implement the regulatory regimes?

MS KENDALL: Yes, I think that is more practical, I suppose. As long as they do it. That sort of structure sounds reasonable. You mentioned the RSPCA in policing. I think it's grossly unfair what happens with the

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RSPCA because they are a charity and they are responsible for all this policing. They haven't got any funding. If they lose a case they have to pay the costs. If they win a case the government scoops the money. It's completely wrong. That's another issue.

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MR LINDWALL: When Ken and I visited New Zealand a couple of weeks ago and we spoke about the New Zealand body that is independent and has been around for many years, but the thing that I found interesting was that they didn't think it was good to be a decision-making body and it isn't. It's an advisory body. The reason was that once the statutory body becomes a decision-making body, it becomes politicised to an extent. It becomes pressured to have the right type of sympathetic people being appointed and so on.

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MS KENDALL: I see, yes.

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MR LINDWALL: And when it's purely advisory it can be a little bit like the Productivity Commission. We have no decision-making powers whatsoever. We are just purely advisory, but it has the credibility of a long term with some level of independence. Would you accept that that might be a reasonable case for having an advisory only rather than decision-making powers?

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MS KENDALL: It would be. I'm just not sure of the Productivity Commission's record on getting things through.

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MR BAXTER: We have got a fairly good record of being sat on at fairly regular intervals. We have made unpopular recommendations, but on the other hand we have also had a fairly substantial degree of influence, both in our current name and under the previous lives that we have lived, of influencing a fair amount of change within Australia.

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MR LINDWALL: I think there was an estimate of Productivity Commission and forebears recommendations, not immediately implemented but implemented in one way or another after a degree of time, about 70 per cent of them, so more than you might think.

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MS KENDALL: Yes. I accept that things have to happen gradually so, yes, I would - - -

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MR LINDWALL: Sometimes governments - I find that they try everything and ultimately reach the right decision after exhausting every other possibility.

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MS KENDALL: Finally the community votes them out if they get to that

stage.

MR LINDWALL: Sorry, Ken, did - - -

5 **MR BAXTER:** No, no.

10 **MR LINDWALL:** I was going to ask you about - we have spoken about the structure of the body and you didn't really say who you thought could be represented on it. Then I go back to the point, it should be broadly representative of course, the community values and expertise and it should have people who have the right skills for being in animal welfare, but could you have on such a body, people who are fundamentally opposed to production of animal for human consumption?

15 **MS KENDALL:** I would like to think so, they have got valid reasons. Yes, I think everyone should have a voice really. Like I said, I am trying to give animals a voice, and I think these people have a place. I was very interested on the previous - the hemp business, because that is one of the things that worries me about meat production. I have mentioned that in
20 my first, the original submission. We need to find new, smarter ways, of producing clothes that we wear and things like that, and teaching third world countries how to do it as well so that they can start making a bit of money clothing the world with things like hemp. I was quite impressed with that. I thought I would be bored at first but then my ears pricked up
25 and I found it very interesting.

MR LINDWALL: We should speak a little bit more on live exports since we have covered off, I think, on the structure of the organisation we spoke about. We hear that you have just said that you are opposed to it
30 and that is fair enough. I think you would disagree with the argument that some have made and we have made mention in our report that if Australia exports with higher animal welfare practise to, say, Indonesia, that displaces potentially lower welfare practices from another third country. You don't agree with that argument, but what about the argument - - -

35 **MS KENDALL:** I agree it will happen but I don't think that is a reason why we should be live exporting. If they are fair dinkum about wanting to improve animal welfare, send some money - don't send our animals, but send people over to educate these people. It's just spin.

40 **MR LINDWALL:** What about the argument that by having an ESCAS regime in place that Australia is gradually improving animal welfare practices in third world countries?

45 **MS KENDALL:** That is all very well. They went to Vietnam in '99.

5 They knew what was happening with the sledgehammering. You can't go and examine facilities - they knew. So it was pure greed and in the latter years, before this last sledgehammering expose, they rushed out animals to about 200 abattoirs. How could they have covered all those, and that was under ESCAS? I am very sceptical about ESCAS. It has done some improvement but it's not properly policed. It's not managed. I give money to charities to go over investigating. Sorry, I've lost track.

10 **MR LINDWALL:** No, no. If the government has decided that it wants to continue allowing live exports of animals for consumption purposes and for breeding purposes, that is a decision, right? You would agree that ESCAS has made an improvement, but how would you improve ESCAS, assuming that that was a decision the government wanted to allow. Is there a way of improving it further than it already has been improved?

15 **MS KENDALL:** I suppose you would have to say you would want more investigators keeping an eye on what happens over in the countries where the animals are sent because at the moment I think about 50 per cent of the exposes and breaches of ESCAS are reported by volunteer - animal welfare organisations that rely on donations.

20 **MR LINDWALL:** So it should be a more mandatory inspections and audits.

25 **MS KENDALL:** Yes, but then you have this sovereignty issue, you see, and they will go for the lower exporter. Then my argument is just teach - don't send our animals there because that is saying it's okay. We should just be sending people to train humane slaughter and things like that, not sending our animals, but I know that is a bit of a leap. At the moment, ESCAS - obviously, it would have more oversight.

30 **MR LINDWALL:** Who should pay for the additional cost?

35 **MS KENDALL:** I think the live exporter is already complaining about the regulation now and the farmers won't want to pay. That is what I am saying. It's so costly to get a humane result that why are we doing it?

40 **MR LINDWALL:** Sorry, to interrupt. On that line, is the other option to say, "We are not prepared to entertain live exports for slaughter but we are willing to maintain a position where we will ship animals slaughtered in Australia under Australian standards to those countries and, in fact, provide funding to those countries to establish proper freezer rooms and inboard facilities to take slaughtered meat." Is that an option?

45 **MS KENDALL:** That sounds like an option, yes. Yes, because that

would give employment to meat workers here. We could meet their requirements, religious or whatever, as long as it's done properly.

5 **MR LINDWALL:** We have seen a move over the last 20/25 years, and obviously not at a fast enough pace to satisfy some people, in which we have convinced, for example, some of the Arab Emirate countries to accept frozen meat but that has been halal slaughtered in Australian slaughterhouses.

10 **MS KENDALL:** Yes. Well, that's perfectly fine, but when you go Dubai and Abu Dhabi, I mean they've got huge, great shopping centres, I mean I think that's more spin because, really, the average people that haven't got refrigeration haven't got the meat anyway. There's a lot of
15 guest workers and whatnot there, so I think that was a spurious argument anyway, they've got plenty of refrigeration in those countries, they're very wealthy countries, except for the poor people, the guest workers.

MR LINDWALL: Did you have anything else?

20 **MR BAXTER:** No, no, that's it.

MR LINDWALL: Well, what time is it; we're basically out of time, that's the half hour. So I'd like to thank you, Jan, for coming in and appearing before this hearing.

25 **MS KENDALL:** Thank you very much for the opportunity.

MR LINDWALL: I take it your husband wasn't here to give you moral support?

30 **MR BAXTER:** Or he's run off.

MS KENDALL: No, he's over there.

35 **MR LINDWALL:** No, there he is.

MR BAXTER: And he's perfectly happy with your performance by the look on his face.

40 **MS KENDALL:** Right, he's been clapping.

MR LINDWALL: Unless anyone wants to appear right now, we are scheduled to hear from the Australian Property Institute at 10.30 which is in half an hour, so I suggest we have a quick coffee break. Is that all
45 right?

MR BAXTER: Or do you want to proceed, I mean, John is here.

MR LINDWALL: We could proceed.

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MR BAXTER: Then why don't we?

MR LINDWALL: Then have a coffee break after that?

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MR BAXTER: Yes.

MR LINDWALL: John, are you happy to?

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MR SHEEHAN: Thank you very much. I won't keep you from your coffee too long.

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MR LINDWALL: No, no, that's all right. I wasn't desperate to get a coffee, I'm just trying to schedule things, that's all. If you could just say your name and organisation, or if you're representing an organisation, and probably give us a brief introduction of what you'd like to talk about.

MR SHEEHAN: Yes, thanks, Commissioner.

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MR LINDWALL: I'm happy to be very informal by the way, so Paul is fine.

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MR SHEEHAN: My name is Professor John Sheehan, I'm chair of the submission committee that prepared the submission on the Issues Paper on behalf of the Australian Property Institute. Thank you for the opportunity to attend the public hearing this morning.

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I did mention to the staff in the Commission yesterday that whilst we did a submission on the Issues Paper we felt that, in relation to the draft report, but while we just didn't seem to feel a need there was to restate the things that we said in the Issues Paper, there are a number of things that are in the draft report that we would like to comment on, and probably at the hearing today, it's the best vehicle for us to do it rather than give you yet another submission. So to that extent, I don't know whether you've got a copy of our submission on the Issues Paper?

MR BAXTER: Yes, we do have that.

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MR SHEEHAN: If you don't mind, I'd like to really address just a couple of things, fairly prosaic having heard the earlier speaker, we'll obviously be focusing on issues of tenure and regulation. Look, first of all

5 I'd like to mention in relation to the reforming of pastoral leases and I take you to the section in the draft report at page 67 and also our response on the Issues Paper, we also had a comment on the Issues Paper, our response, the API's response, that's page 8, that's paragraph 3.4, Pastoral Activities.

10 There's been a number of inquiries, particularly in New South Wales, into the issue of Crown land legislation, and there's a mention there at the bottom of page 8 in respect of the New South Wales Trade and Investment Inquiry into Crown Lands Legislation, the White Paper, in particular I have repeated there, or our committee has repeated our response in relation to that. There seems to be, inherent, a belief that pastoral leases, because they're not freehold, represent some sort of inferior tenure. There is of course in the draft Commission's report here, a number of times a mention in there, for example, on page 69 there's mention there of particularly the Western Australian government's approach to wanting to reform pastoral leases, leasehold interest in the agricultural sector, primarily aiming towards freehold.

20 One of the issues that arose in the 2014 submission that we made to the New South Wales government was that there is this misunderstanding that because it's a pastoral lease, because it's not freehold, it's somehow or other not adequate security for perhaps raising funds, which is completely untrue. The Wik decision, you might recall, a major native title decision after Mabo, was predicated on the basis that pastoral leases were able to coexist with native title, but they stood above native title in terms of their superiority as a tenure. So I think that argument that seems to be pervading the submissions that have been raised there to you, the Commission that is, in relation to the reforming of pastoral leases because they're "inferior" really just doesn't stack up.

35 I think one of the other issues, particularly looking at the Western Division in New South Wales, part of the reason why those western lands leases have been maintained ever since early colonial days, is because that land is incredibly fragile. You might recall that, Tim Flannery, some years ago in *The Future Eaters* mentioned, I think it was 9 per cent of the surface area of Australia is arable, that's an extraordinarily low amount of arable land, and even that in probably northern European terms would be somewhat suspect, I mean semi-arid land is still used for grazing.

40 So we have said, as I said before in our earlier submission on your Issues Paper and also in 2014, from the institute's point of view, and remembering the 8,500 men and women in the institute, many of them are the gatekeepers for the banks and financial institutions and they're responsible for assessing the worth of a security. There seems to be no

issue in relation to that, so I question whether or not there is, in terms of the Commission's, perhaps, response to those submissions that have been made for reform, if there is really a genuine need for that. If you don't mind, I'll continue with the other bits?

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MR LINDWALL: Please.

MR BAXTER: Or could we just - - -

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MR SHEEHAN: Sure.

MR LINDWALL: Could we hear and then come back?

MR BAXTER: Well, can I just come back to a couple of those issues.

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MR LINDWALL: Come back, sure, we will come back, yes.

MR SHEEHAN: The second issue I wanted to address is the question of land use planning. I've made a number of submissions over the years to the Productivity Commission on behalf of the Australian Property Institute and, particularly, your very significant submission on planning, zoning and development assessment. We have repeated in our submission there that the interjurisdictional aspects, they're buried in the Constitution, and while the previous speaker was alluding perhaps to tidying it up, it's just not going to happen, is it, and the Commission keeps on making comments about the fact that there is an incredibly untidy approach to land use regulations. Specifically, in relation to the non-urban sector in terms of land use planning, it's incredibly untidy. I draw your attention to our comments that we made there in relation to just a very simple example in respect of two adjoining municipalities or local government areas in New South Wales.

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MR LINDWALL: Which page is this on?

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MR SHEEHAN: That's on the institute's submission on the Issues Paper, it's page 5 and it's paragraph 3.2. The example there that we gave was the Hastings Valley and it was basically centred on Port Macquarie, the Port Macquarie-Hastings Local Environmental Plan, the planning scheme actually says there that one particular agricultural use, vineyards, can only exist subject to development consent. Go to the next page, immediately below that particular local government area in the Manning Valley, the Greater Taree Local Environmental Plan allows vineyards without development consent. I just simply don't understand the rationale for that, and there are many examples that I could give you that we have come across through the various jurisdictions in Australia. I think that's

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quite a rather savage and fairly stark example of it, because vineyards have existed for many years in both of those catchment areas.

5 I'd like to take you now to the last main point I wanted to speak to
you about, and that was in relation to the draft report, the section on water,
and specifically page 148, your box 4.2 in relation to water, we had some
discussions in the Harper Review and in the issues paper response by us,
the API, at page 11, our section 3.7, we made some comments in
10 December 2014 to the Harper Review and the issue there of course is the
interjurisdictional problem. But there's an even deeper concern that we
gave got, and that is that with the COAG decision many years ago to
separate out water from land as a land tenure and to create statutory rights
in water, the final step was never undertaken to create property rights in
water. Consequently, just looking at say one bit of legislation, the Water
15 Management Act 2000 of New South Wales, but it's a mirror for the rest
of the states, there is essentially only modified, very, very, modest
compensation paid if, for some reason, that particular right, that is the
right to water is extinguished by the state.

20 Now, you can have the bizarre situation where, if you could imagine a
property, say adjoining a national park for some reason in any State,
particularly if we focus on New South Wales, where the property
combines both real property, which of course is protected by the land
acquisition legislation in that state, so the full value, all the heads of
25 compensation under section 50 of the Land Acquisition (Just Terms
Compensation) Act in New South Wales, the full level of compensation,
very, very similar to section 51(xxxi), just terms in the Constitution.

30 If you turn then to the water component, and in a capital package it's
quite possible to have something like 75 per cent as the land value and
maybe 25 per cent as the water value, but the minister can effectively
cancel that 25 per cent of the total capital value with very, very limited
compensation. We have argued over some years now that that is really
quite intolerable.

35 One of the members of our Committee whilst the Committee spoke as
the institute, was Patrick Lally, the head of valuations with Rabobank. I
know that in the input that he had to our discussions as the Committee,
one of the issues lies in that where there is security sought from the
40 farmer, not necessarily from Rabobank, but he drew our attention to the
fact that quite often you will find out that the farmer is required to add in
some more real estate from somewhere else to give a greater level of
comfort to the bank or the financial institution.

5 I've got to say, that's fairly messy, and of course you could imagine it increases the cost to the farming community where they're doing that. In areas of Australia where it is possible to undertake horticulture or agriculture using water, the cost of doing that is really just not commensurate within that. That's all I wanted to say if I could and I'd answer any questions.

10 **MR LINDWALL:** Thank you very much. You wanted to kick of the batting then, Ken?

15 **MR BAXTER:** A couple of issues. We have had quite extensive discussions with both the land administrations in each of the States, we've also taken into account the supposed unified attempt at introduction of the biodiversity legislation in all of the States, and in fact as late as yesterday we had a post-hearing meeting with both the Department of Premier and Cabinet and the Lands Administration in Western Australia, and several, I think, issues were raised. One is they pointed out that the vast amount of land in Western Australia, even leaving outside the mining land, is leasehold, is partial leasehold country. They raised the questions of a new proposal I think for carbon mitigation, or sorry, carbon sequestration,

20 **MR SHEEHAN:** Sequestration, yes.

25 **MR BAXTER:** And they also made the claim which you have similarly made, that the leasehold title does not diminish the security in terms of the banks. I want to come back to that one. But has the institute adopted any view over the proposed changes in Western Australia in particular, and also most particularly the implementation of the carbon sequestration proposals?

30 **MR SHEEHAN:** Well, first of all, not specifically Western Australia but over the whole of Australia in the various submissions that were done over recent years, attitude has been consistent, and that is that the argument, as I said before, that the tenure is weaker, being a pastoral lease, simply just doesn't wear. I know that personally because, for seven years, I was the national native title spokesperson for the institute. So after the Wik decision back in 19 - - -

35 **MR LINDWALL:** '88?

40 **MR SHEEHAN:** Yes, something like that, that's right. The banks of course were hearing a lot of discussion in the press after the Wik decision, and you might remember there was discussion about the 10 point plan in the days of the Howard government, the banks were concerned. I recall being asked by one major bank to attend a meeting shortly after the Wik

5 summit occurred to discuss with them all, they had all together their state rural lending managers and they basically said to me, “Look, is there an issue for us, we don’t believe that there is any lesser security because there isn’t any more that you can get than that particular interest in those parts of the country?” and it was a simple answer.

10 **MR BAXTER:** The Wik decision itself, and correct me if I am wrong, or my impression from the representative from Premier and Cabinet in Western Australia yesterday, was quite critical of people who assumed that the Wik decision, once a decision had been made in relation to a particular parcel of land, it was equivalent to freehold title. I think was that the proposition they were putting to us yesterday?

15 **MR LINDWALL:** I think so.

20 **MR BAXTER:** I am just intrigued, and more particularly since you were the chair of the Wik committee of the API as to where you see the Wik decision sitting in relation to, say, pastoral leaseholders, whether it’s in Queensland, Western Australia or New South Wales, where the majority of these arrangements exist, whether that Wik decision has been underestimated in terms of its impact and whether it basically constitutes, effectively, a separate, beyond - attack is the wrong word, but beyond a variation in terms of effective freehold title.

25 **MR SHEEHAN:** Look, in simple answer, pastoral leases themselves - and it doesn’t matter whether it’s Western Australia or whether it’s, say, Queensland, particularly in Western Australia, the two main States - the pastoral leases are not like, say, freehold. If you have a Certificate of Title in Western Australia for freehold it’s exactly the same in terms of a property right as what it might be in Tasmania or New South Wales. Pastoral leases are really quite multifarious.

35 For example, in what used to be called the Guidance Note on Valuing Land Subject to Native Title, there’s an annexure that we wrote at the end of it which was, essentially, those pastoral leases, those interests which the government had decided - with the support of I think it was Senator Harradine in those days after the Wik Summit - to actually say that those leases extinguished native title, and others obviously will regard it as not.

40 There was actually quite a subtle underpinning in that because a lot of the pastoral leases have rights and interests in them which are nearly synonymous with having a freehold interest, but some of them, for very good reasons like, for example, some of the Western Division leases in New South Wales, the land is so incredibly fragile that they need to have a lot of constraints upon the utility on that land. Some of the pastoral

leases, for example, have a requirement that says that you've got to fence, that you've got to do this, you've got to do various improvements, others, you'd be forgiven for thinking they're little more than a travelling stock reserve in private hands.

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So I think that's the answer for you, because they aren't all the same and they're there I think for some very good reasons. We argued, as I said, in relation to the Crown Lands Review in New South Wales, that to simply allow a whole range of uses to be added on to the existing uses, in the absence of the Environment Planning Assessment Act, the planning legislation, which would then impose a series of things within a different piece of legislation, just simply, well, in the absence of planning legislation you had to rely on the conditions of the pastoral lease to impose the sort of things you would expect normally in land use planning controls coming out of planning legislation. Where you have those sort of controls, and it's interesting, that that's where you tend to have the freehold agricultural tenures.

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MR LINDWALL: Correct me if I'm wrong, the way I think about property rights is a spectrum where, at one extreme, you could have absolute title to a particular lot of land, including the minerals underneath it and you'd have unrestricted use of it and you can do anything you want without any restriction whatsoever.

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MR SHEEHAN: Absolutely.

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MR LINDWALL: To another area, to another extreme, where highly prescriptive rights, so it's a bundle of rights which can be time limited and they can be restricted in various ways. I accept your testimony, and we've had it before, that the pastoral leases shouldn't be considered inferior in a particular way, although they're obviously a lesser bundle of rights than, say, a more unrestricted, especially if they're time limited. I guess my question is in that respect, if I was a bank, lending money on that security and you have a 20 year pastoral lease and it's expiring in the next three years and you need to have the new loan and there's discretion by the Minister or the government whether you get the renewal or not, surely I would take that into account if I'm a bank?

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MR SHEEHAN: Excellent question. Exactly that question had been put over many years ago, after the Wik Summit. The issue of course is that as a security, you've got to contrast it with freehold land which is right next door to a road that's going to be widened very soon, but there's no indications that they're going to take the land, so you'd have to think there's a question about is that land going to be acquired, and it's freehold land, for the widening of a road.

5 The same thing goes with, say, pastoral leases, that particular property right, there is a pattern there of more or less automatic renewals, and so that's something that the rural lending areas of the banks and financial institutions are fully aware of. So in some respects, I mean, that analogy is not that far from the truth because they just continue.

10 I mean the point is that the Crown estate is there to be kept within the ownership of the Crown, but at the same time they also want to see it used throughout all of the States for productive agricultural purposes. So for the Minister to arbitrarily cancel one, or just not renew a pastoral lease, and a lot of the pastoral leases have a quality of nearly perpetual. But that's not the issue, the issue is the fact that often the uses you can undertake are actually prescribed, and prescribed in the absence of - - -

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MR LINDWALL: For very good reasons, yes.

MR SHEEHAN: That's right.

20 **MR BAXTER:** Well, can I just pursue that. That if I'm reading correctly, the debate that's taking place in Queensland at the moment about the implementation of the environmental biodiversity legislation, that a number of the producers are saying, well, effectively what you're doing by introducing this legislation which will run right across the spectrum, so when you hold a 20 year pastoral lease, a lease in perpetuity or you hold freehold, that effectively what you are doing is diminishing the value of the property right by imposing a whole series of conditions on how you can manager timber, grasses and so on, on that freehold.

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30 So there's a proposition being put that, effectively, you are just writing off the value of a lot of existing freehold tenements, and that in turn will have an impact on the capacity of existing producers to in fact increase their - or if they need to increase their borrowings from financial institutions.

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MR SHEEHAN: Are you alluding to the debate about native vegetation clearance?

MR BAXTER: Yes.

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MR SHEEHAN: Yes, I thought you were. Look, I'd had experience with the declaration in Queensland of the Wet Tropics Heritage Area and it was interesting that, on that particular time when that was occurring, not only did you have pastoral lessees saying that the utility of their land was being diminished, you also had farmers with a freehold interest saying that

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their areas were going to be diminished, and you also had native title holders saying the same thing.

5 So what can you say, excepting that I go back to a 1957 comment in a book called Jurisprudence by a guy called Dias, it's quite a well-known text, and he said it's a fallacy that the property rights were never diminished by the state. They've always been mitigated by the state to a certain extent and I suppose, as time goes on, we learn more and more about the custodial role of the state, it has to interfere more openly in what is occurring. For example, clearance of native vegetation, if you happen to be there and you've had your property cleared years ago, before this came in, well, you could argue you're a winner.

15 But at the same time there's also issues in relation to, for example, you mentioned before, I heard you mention about carbon sequestration, I mean there's an outgrowth of that now which is occurring in New South Wales where if a state agency wants to build, for example, a roadway, a motorway around a town, I'm aware of one at the moment where they'll be going through some endangered vegetation.

20 What's happened is that properties nearby that have the same sort of vegetation but which isn't to be acquired as a result of this motorway, there's now a value being attributed to that endangered vegetation in situ and it now has a passive income source for the farmers, where originally they might say, well, I'm actually losing this benefit because I could have cleared all the land. To quote one farmer recently on the edges of Queanbeyan, he said to me, "I'm so glad we never demolished it because I've got a very, very nice passive income stream coming in". Make what you make of that, but that tells us of the complexity that's coming in.

30 **MR LINDWALL:** Of course, yes. I agree absolutely by the way, your point on water rights and property rights, when a key thing of a sound economy is that property rights should be well-defined and protected.

35 **MR SHEEHAN:** Absolutely.

MR LINDWALL: The arbitrary taking away of property rights without due compensation in terms of water is regrettable, have you - has the institute tried to get the government to change that policy in any way?

40 **MR SHEEHAN:** We put a submission in some years go to this Commission when you were looking at water, and we'd had a number of meetings with successive Ministers for Water in New South Wales, because that's where I happen to live, and nothing has ever happened. I think that, deep down, you could be looking at the Treasury, saying, well,

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that's going to increase our potential, our compensation bill and maybe we'll put that aside for the future.

5 **MR LINDWALL:** Even though it obviously is, by definition, a lesser property right if it can be seized, sovereign risk is what one would normally call that.

10 **MR SHEEHAN:** That's right. And the banks also respond to that because they see it as being - I mean, essentially, just looking again at the Water Management Act in New South Wales, it specifically says that that right attaches to the holder of that right, its personal property, so you know that if you can raise money against real property at the moment, you may be paying five-and-a-half per cent, for example, another form of personal property would be a motor car and the interest rate on that is probably 16 per cent or something because it is seen as risky.

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20 So you can see the understanding of the banks because they can see that's an issue which really needs to be resolved. But on the other side of it you've got - as I can appreciate, you've got the Treasuries in each of the six states saying, well, look, that's going to increase our potential liability if we want to do something.

25 **MR LINDWALL:** Now, I just wanted to see that you're consistent on this, that if the government takes property and has to pay compensation for that loss, would it also apply, and we said as much in the report, that if you were to convert pastoral leases to freehold, and let's say the property was valued at 5 million previously and is now valued at 10 million, the government should charge for that, say in that case, \$5 million as an example?

30 **MR SHEEHAN:** I've heard that proposition put many times in the past, particularly after the Wik decision. The point is that there is no market in those parts of Australia where there's only pastoral leases so there's no benchmark to move it on, so that is. You mentioned before different sorts of tenures, I mean what we do in terms of property theory, we talk about the tenorial pyramid, obviously the Crown sits up the top and the further down the pyramid you go the more sorts of tenures there are, ticket licenses and rights away and things which - some of them can be quite weak.

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45 However, in relation to the value of that particular property right, there is nothing above it that is valued. So the assumption that, for example, I know it's only an example, but that pastoral leases or the property right as a pastoral lease, if it's worth \$5 million and if it was freehold it becomes 10, there's no substance to that because the highest

5 value that's available is that at the moment. Just like, I mean I have a house that has a Torrens title real property title to it but it is subject to the ability of the Crown to acquire it. If it were possible to have a Torrens title that the Crown couldn't acquire, sure it might well be worth more money but it's not possible to have.

10 **MR LINDWALL:** My final question is related to your second point which was what effectively you call intrajurisdictional and interjurisdictional conflicts, or inconsistencies, although obviously the differences between States' jurisdictions is an intractable problem and there's little that can be done.

MR SHEEHAN: Of course.

15 **MR LINDWALL:** But it is interesting, the example you've got here on page 5 which is an intrajurisdictional problem and the State governments could do something about that.

20 **MR SHEEHAN:** Exactly, I know.

MR LINDWALL: So do you have any thesis about why they don't?

25 **MR SHEEHAN:** In New South Wales they produced what they call the standard LEP template, which is the Local Environmental Plan template, but even that is seen as perhaps too restrictive, we still operate under that, and the rest of States, in fairness, are trying to simplify the zonings that they operate under.

30 But you're dealing with creatures like adjoining local government areas and it always surprises me, one of my disciplines is town planning, what surprises me, how innovative local government is to separate out their particular local government area from the adjoining local government area, and I think Hastings and Taree is a prime example of that.

35 **MR BAXTER:** If it gives you any heart, that is long recognised, that they need to do something about it. There's a meeting in Canberra in about three weeks' time when they're attempting to get land jurisdictions and the planning jurisdictions together, not only in New South Wales but
40 all the other states, to try and reach some view as to what might be some positive next steps for us.

45 **MR SHEEHAN:** I must say, Commissioner, it's desperately needed. Because even within areas like Sydney, I don't know if you're familiar with St Leonards, for example?

MR LINDWALL: Yes, very much so.

MR BAXTER: All the time, yes.

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MR SHEEHAN: Well, St Leonards is where the three local government areas, prior to these amalgamations, occurred. So you had North Sydney, Lane Cove and Willoughby touching right at the centre of the railway bridge, and as you would be, an astute observer would notice that, gee, I think it's interesting that the office buildings on the Lane Cove side, metres away, are slightly different to the ones on the Willoughby side and the Lane Cove side, and in fact Lane Cove had one where the buildings, somehow or other, they designed them so you had to have more space at the bottom and then would cantilever the buildings up. Now, all one, small, suburban, commercial area and they couldn't even get that right.

MR LINDWALL: Yes.

MR BAXTER: Well, can I just add to that, I mean we're dealing with the same issues in relation to rural councils, and in all fairness to the various states' administrations, they are wrestling with how to get something sensible and manageable. I see the Chair is looking at his watch.

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25 But could I just renew the page 10 of your document and at the bottom of that you deal with the aftermath of the native title decision. You make the observations that, given the processes are necessarily complex and are dealing with an intensive legislative interplay, you're not able to offer any commentary. I mean it seems to me this is a continuing problem across a number of the States, the point was made to us very clearly yesterday, in Perth, that it was basically Premier and Cabinet that would make the ultimate decisions over the Wick negotiations and they'd tell the Lands Department what to do. What's your assessment of next steps in this area?

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MR SHEEHAN: Look, native title, we could have an hour discussion about it if you wanted to. Native title is never going to be easy. That is one of my specialisations. One of the issues about native title is it was recognised so late in Australia's history as against other countries, I mean you had British Columbia, in 1857 had the first statute that actually recognised Aboriginal tenures, and we were very, very late off the starting blocks. So, to that extent, a lot of the development and the creation of this tenorial pyramid I spoke about had happened, and so you will recall in the Mabo decision, I think it was Justice Brennan was at pains to say that we're not going to unsettle the skeletal framework of existing property

law. I often say to the students and the researchers, look, it's all about native title, the native title decision in Mabo, I said, well, actually it's not, it's about reaffirming the existing settler land tenures.

5 But in that process of recognising native title, I mean there's two bits of that which necessarily make it complex, and we weren't being facetious when we said we didn't want to comment, but the reality is that because it came so late it had to necessarily be complex to deal with the fact that, (1) you couldn't disturb, realistically, the existing tenure pattern. That came out in the Wik decision where, essentially, the Wik decision actually created more robust pastoral leases by saying, well, if you've got native title which could co-exist and you've got a pastoral lease, that one sits in the tenorial pyramid, above native title. So native title yields to those which are already pre-existing.

15 However, where there isn't any situation, where you do have to negotiate, and I'm getting involved in doing compensation assessments in my consulting practice where there's State government activities occurring which are going to extinguish native title, I mean it would be nice if someone could have a bit of paper and says, look, this is our native title certificate, but it isn't quite like that.

20 I mean, as you know, native title has a whole series of things in it which we call incidents of native title, some of it is utilitarian, like the parcel of land which they own and live on, but there's other things in there which are really unknown to us such as, for example, spiritual and cultural attachment, some people might disregard that. But in the decision in Mabo, the court was at pains to say that native title was sui generis, it was of a kind which was unknown at the common law. But of course, intriguingly, what the Australian High Court did was to recognise that which was unknown in the Australian common law at the time, and that's really where it lies.

25 So those things that we've listed on that page at the bottom there, frankly, they really have to stay as they are. Now, it may be an efficient process, but neither is land use planning between Hastings and Greater Taree either. In that particular case, the Federal Court has tried, diligently, to try and deal with a lot of the cases, and with the Howard amendments, when they mended the Native Title Act, basically you couldn't have native title claims over the same parcel of land, they really did make it much more efficient. However, it's like anything else, it is litigation ultimately and the rights and interests have got to be protected.

30 **MR LINDWALL:** I think that's actually very helpful. Thank you, Professor Sheehan.

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MR SHEEHAN: It's my pleasure.

5 **MR LINDWALL:** I think we should have a coffee break now. We can't offer you very good coffee but we can offer you coffee.

MR SHEEHAN: Well I avoided it in Qantas, so I'll have some of your coffee here. Thank you very much.

10 **MR LINDWALL:** I think we will resume at 11.30 with Craiglee Vineyard.

15 **ADJOURNED** [10.37 am]

RESUMED [11.05 am]

20 **MR LINDWALL:** Welcome, and as I said, if you could just say your name and organisation and a bit of an introduction?

25 **MR CARMODY:** My name is Pat Carmody, I'm from Craiglee Vineyard out at Sunbury and I've been farming for a very long time. Briefly, a potted history of Craiglee is that it was originally started by a man called James Stewart Johnston in 1863 under the - and he got the land under the Duffy Land Act which was introduced with the novel industries clause inside it which allowed for specifically for viticulture in the area. So that's where it started. He and his sons made wine there until 1927 or 30 '28 and then the vines, particularly after things like the First World War where a lot of the wine was exported, it basically ceased production. As did lots of areas around Melbourne and the Yarra Valley, et cetera. And so these areas then went into decline. There were vines were on the site until the mid 1940s.

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40 My parents bought the place in 1960, we were Northern Victorian farmers, and shifted - my father shifted closer to Melbourne for education of children, obviously. I was doing agricultural science, which I started in '71 and finished in '74. In 1972 we had a man called John Brown call in after a lot of bottles from 1872 Craiglee Shiraz were opened at lots of dinners in Melbourne and found to be perfectly sound and wholesome. And John Brown said to me that, "You should perhaps consider replanting the vineyard because anywhere in the world that can produce a wine that lasts a hundred years is worthy of being replanted."

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5 So in '75 we lost my father. He really wasn't interested in wine, he
was a good beer drinker. And in 1975 we lost 150 sheep one Easter
weekend and it broke his heart and he said, "Well, what are we going to
do?" And I said, "Well, we're stuck in suburbia, basically, I will replant
10 the vineyard", because I always wanted to go farming and like lots of
farming families they don't want children to come home, they want them
to go and get a proper job. So I replanted the vineyard in '76 with Shiraz
and continued to make the wines exclusively from that site. So on the site
there's one of the earliest uses of concrete technology in Victoria. There
15 are two houses on the site, there's a bluestone house and a, as I said,
Johnston building, this concrete house. There's also a listed heritage
Victoria Winery on the site.

20 So what have we done? I'm on Langton's Classification for
significant Australian wines and have been since the second one. I'm
regularly in Halliday's Top 100. I've won Best Red Wine at the
Melbourne Show a couple of times. The '90 Shiraz was classed as one of
the top 5 in Australia and the top 100 in the world. So, it's reasonably
well known for what it does. However, we - in 2008 the Brumby
25 Government expanded the urban growth boundary around Melbourne by
26,000 hectares or something, which picked up our place, the farm,
basically.

30 The vineyard was put in as a rural conservation zone and I continued
to deal with that as an issue. In May 2013 the frogs arrived. It's a bit like
the invasion day, you know, 26 January. Well, mine was May 2013, the
frogs arrived. Our place was put under - and a friend of mine told me that
I should go and look at what's happening with the government and there
was a meeting in May 2013 that listed about 85 per cent of the vineyard as
35 being category 1 Growling Grass Frog habitat, which if you read what
category 1 Growling Grass Frog the legislation - there's three possible
outcomes for Growling Grass Frog habitat; land can be secured for by
entering a non title and management agreement of indeterminate nature
and at my cost with the DSE; or it can be transferred to the Crown at no
cost, no compensation; or it can be publicly acquired by an authority.

40 So there is a lot of land being given to the government under the frog
habitat by developers who are just - pass it off, give them the creek, so
they can get on with doing their development. Unfortunately mine picked
up, and as I showed you the map that was sent in, shows you the
serpentine nature of my creek, that if you put a hundred metres into it, it
basically ruins the site. What does that mean for me? That basically the
place is worthless, according to the government. And then we had - so we
45 then start on meetings with the government.

5 So we met with a man called Warrick McGrath, who is a big wheel in
the DSE, or whatever it's called these days. We have - first up, we have
never been formally told by the government that our place is in category 1
Growling Grass Frog habitat. If you didn't find it on the website you
didn't know about it. We've had endless numbers of meetings with
10 people like Warrick McGrath, who inevitably turns up late because he's a
busy man, and inevitably never stays for the whole length of the meeting
because he's busy as well. Staff who attend the meetings have never
attended any more than two meetings. These are interesting techniques as
to how you deal with people.

15 Then you have what I describe as the pass the parcel letters, that you
go from one to the next person to the next person, and back. They're
really hoping that you go away. They were thrilled to bits, the state
people, that when finally Mark Butler signed it off at the state level that
before in the caretaker period of the Federal Election back in 2013 so that
then they were able to start on the next exercise. It's not us, it's them. It's
20 the feds. No, the feds say it's the states. The states say it's the feds. All
in all it's that you finish up with no change.

25 So we're basically dealing with what I describe with this sort of stuff
as the one centimetre rule that farmers use, you pick up authorities that
have got one particular topic in mind, they don't have to look at anything
else, and they pick up one centimetre of the metre long ruler. So in this
case you had something like - to sterilise something like 500 hectares of
land in this area, that there's been no extensive modelling of Jackson's
Creek, there was no scientific numbers on this done, no population count
to establish that a population exists, no validated sightings in recent times
and at the appropriate season, no definition of a sustainable population,
30 and no contact with the property owner.

35 The consultancy group who did the thing, Ecology and Heritage,
reported anecdotal sightings from Emu Creek, which is not Jackson's
Creek, in 2006 and there's only one other historical record of an
indeterminate frog at Holden Reserve, which is down further from us, in
1990. There was no evidence for Growling Grass Frog habitat let alone an
important population. So why should someone like me lose my family
home and my business?

40 So as well as the one centimetre rule, which is what you basically
have, my wife is a biologist by trade and is offended by the lack of
scientific rigour that's associated with all of this sort of stuff. It was - and
I use the term of it as being, it was a dirty deal between the government
and land developers. And land developers are very happy to pass off the
45 hundred metres along the creek. So my wife, being a biologist, considers

these people would have been laughed out of any scientific conference if they put this stuff up.

5 And she used the example of another species, because this is all modelling that's associated with the Western Plains of Melbourne, she said, "The modelling suggests that this species could be still here, it's important that you preserve this on the grasslands of the Western Plains of Victoria, the last one was seen 26,000 years ago, which is a Diprotodon at Bacchus Marsh. But using your modelling the exact same thing as what they've done with the Growling Grass Frog could apply." She was very
10 offended by what they are doing.

15 But she equally as well says something like these explorations are a bit like the Winnie the Pooh and Piglet, that they're out exploring and they come to a tree and they're exploring so they go once around the tree, "Ooh, Piglet, ooh, there's footsteps, it might be a heffalump". They keep walking, "Ooh, Piglet, there's two, there might be two heffalumps". And this is the basis of what these people are doing. That's the sole - there's no work being done on this. And they said they did photographic
20 evidence, if you can't pick up houses and a vineyard when you're using photographic evidence associated with this then there's something very sad going on.

25 The other issues, I suppose, with the frog thing is that we've got a vineyard across the road from us, Goona Warra, which is in a farming zone. Directly across the road. We've got houses directly across the creek with vacant blocks still on them in closer proximity than a hundred metres to the creek. Goona Warra has no frog habitat on it because it was in a farming zone. So I don't know how the frogs - there's obviously
30 signs and they're very clever frogs that they can read that you don't cross the road. The frog habitat starts after that. Equally as well, vacant blocks that are now being built on across the creek from me don't appear to have frog habitat on them because they don't the - they're in an urban zone.

35 The other issue with DSE people is they will never leave Melbourne, they won't come out and talk to people, they refuse to use that they ever indulge in the territorial imperative and refuse to leave East Melbourne. They equally as well after the state and fed stuff with the pressure that was put on Warrick McGrath, he reverted to existing use rights, which really
40 have only got validity for two years but equally as well restrict anything else that you can do on the site, particularly what you're doing.

45 I had the dubious pleasure of meeting the Environment Minister of Victoria at the time, a man called Ryan Smith, who refused to meet me formally as a meeting but met me in what is the visitors' gallery or

whatever it happens to be in parliament with my local member at the time, which was Joanne Duncan, a Labor Party member, and my wife. Ryan Smith's opening gambit when he sat down, to me, "Well you must be Labor Party members if Joanne Duncan brought you in". And which sort
5 of was a bit offensive to me. And then followed it up by, "Well you've met with my department, if you don't like the outcome then stiff bikkies for you", which I thought was pretty unfair.

He then went unfortunately back to a friend of mine, Carmel Clancy, who was PA to Denis Napthine, and said that, "Pat was happy with the
10 outcome of the meeting", after I had finished the meeting with Ryan Smith saying, "You go home and ask your wife how would she like it if today when you go home your house is being taken over for no compensation by the state". He obviously was too dumb to understand what I was actually talking about. What else have we got? Sorry, I lose
15 this sometimes.

MR LINDWALL: That's all right.

MR CARMODY: I think the one centimetre rule also then leads to, which probably farmers across the state, leads to the quarter acre rule that we have to deal with. Is that if you've got bigger than a quarter acre
20 somehow or other you've got less rights than the rest of the community. Seems to be. And so I had the local council town planner, Michael Sharp, ring me and say his vision was that I would gift the vineyard to the council for a park, because it was frog habitat. He got the appropriate response, as you can imagine. And then I perhaps suggested to him that perhaps his home should, wherever he happens to live, should be taken over from him and converted into a community veggie garden. To which his response
25 is, "But it's my home". And when I said so what's the sort of difference he suggested I was rude, so.
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I find it bizarre that in this world that of what's going on today, that of diversity, that we encourage gay pride and we encourage Indigenous
35 football rounds, and we do all sorts of things like this, that there's not allowed - we're not allowed to have diversity in ranges of land uses. And that's not respected. And it's not respected by what we're doing. My wife and I work in the vineyard for probably 300 days a year in pruning, we're pruning the vines, training the vines, we're there, we're not just sitting on a tractor going around where you don't see anything.
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We also have three or four dogs with us, as they do, and they find anything that's in the vineyard. They can find echidnas, baby hares, mice, crickets, whatever. We have never seen a frog. There's other frogs along
45 the creek, there's a Southern Marsh Frog, there's other frogs, there is

no - we have never heard a Growling Grass Frog. We have never seen a frog in the vineyard because the dogs would find those and we always go and investigate what they're looking at in case it's something that's a bit longer and a bit slithery and a bit - not very nice for them to deal with.

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Yet this view is dismissed because we are one way or another environmental vandals because we're a farmer, which is a common attitude particularly if you come from inner suburban Melbourne and work at the DSE, and we equally as well have a pecuniary interest. So therefore we have somehow or other we've got less rights and the diversity of agricultural use is not respected at all. So we've had this once before, which I will very briefly talk about.

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But it was 20 years ago we had the local Water Board that runs sewerage pipes through our place and we have a sewerage farm next door to us. And so they put it on the site back in the '70s and in 1990 they did not manage their odour control from the place so the EPA, or the what I describe as the Environmental Pollution Authority of Victoria decided that they should have a buffer zone. It was easier to destroy a farmer than it was to put your odour control in place. And that went on for five years, basically. It basically nearly crippled my business in 1990 to '95. After I had won major awards and was looking to perhaps expand tourism. And then we moved in from '97 onwards to large droughts.

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It was solved by a man called Robert Maclellan, who was Planning Minister of the day, who basically said to these people, "You put the plant there, it's not the responsibility of the next door neighbour to provide a buffer zone for you, if you've got a problem you tell the community that you've got to put in odour control, like you do in Sydney", you know, there's plants in Sydney that are the same size as the one we've got at Sunbury, on 10 acres, Castle Hill and sites like that. And these people had 110 acres and sought to sterilise 500 around them. At all levels of bureaucracy there's a lack of respect for agriculture. There's a lack of respect, it is primitive the way they treat people in this state particularly, I don't know what else.

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So what's the solution that we perhaps came up with. So we're dealing with the MPA, which you've got a letter from them, and they have designated now that instead of people accepting responsibility that they might have totally stuffed up, they're going to designate me as a special use zone. Which takes me out of the urban growth boundary and therefore technically the frog habitat doesn't apply to me. Why would they do that? That sets up another set of bureaucrats where they're then deciding what they will and won't allow you to do in planning.

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5 So one of the meetings we had recently was with one of the planners was what else can be used in association with a vineyard, so his call was we had an hour long meeting of discussing the words of, “Associated uses or ancillary uses”, as to what you should put in the planning zone amendment. So those sorts of words were ongoing throughout this whole hour long meeting. So it may well solve one of my problems, they will heavily restrict because they’ve equally as well got to deal with the DSE and they don’t actually want to have me doing very much at all.

10 The risk for my business is continuing, and this is one of the unfortunate things, I love agriculture, I love the diversity of agriculture, I love what I’m doing. I love the battle with climate change. I love the battle with diversity, of what happens in farming. I just find it absolutely stimulating every day that you’re dealing with some new problem. 15 You’re dealing with the challenge as to how you deal with low rain fall, high rain fall, how do you produce a crop, before you get to the point of marketing a product.

20 So the risks for me for further on are probably, one, obviously markets, but equally as well I could have another group appear which is AVCA, which is Australian Veterinary Chemicals Association, which could appear and say, we need a buffer zone because we’re a bit frightened of agriculture and we think you should not be anywhere near a suburban area. So I could quite easily be wiped out by that as well by 25 another mindless group of individuals. What’s it done to actually as us, it’s destroyed incentive. It actually makes it really difficult some days to get up and work. It’s both financially and mentally it destroys you.

30 And I think the unfortunate part about it, I wish there was accountability. I wish there was inside some of these planning things that if you’ve made a stuff up something happens that you get compensation for the damage that you’ve done to businesses. And unfortunately none of these people lose anything. Warrick McGrath inside the planning environment can have endless numbers of meetings with me. He’s never 35 had to do anything besides stonewall. The same with the rest of the staff. Ryan Smith never suffers any consequence. The week after he told me that he didn’t - basically didn’t care for me, he was up in the high country releasing Crown land for a cattle grazing trial. So it’s a bit of a mix up thing of stupid things.

40 I suppose the challenge for the Productivity Commission is can you actually change anything. And I will finish with what one of the things that my wife is - and you’ve done it too, unfortunately, which is the term “prepare a submission”, which I find a really weird thing to say. It 45 actually puts people behind the eight ball. It actually puts you down. I

think you should be using - and DSE and all these people do it by, “You prepare a submission and we’ll consider it, that by the submission we actually demean what you’re saying”.

5 I actually think it should be, what I’ve said today is, I think I’ve tried to make a presentation to you. That I’m producing a different set of opinions that I think have got validity. And I wish the term would be taken out because it’s a demeaning term, “submission”, that you submit a submission. You are behind the eight ball straight away because they are
10 deeming that you are of lower value than them. So I’m - - -

MR LINDWALL: I take that as a fair point, although unfortunately I think we’re stuck by our Act in calling them submissions. We don’t treat it as something demeaning, though.

15 **MR BAXTER:** Certainly not.

MR CARMODY: No, it’s other people, I’m saying. It becomes a term of abuse of a putdown abuse, by - and I think the phrase should be used as
20 a presentation, that you are making a presentation - - -

MR LINDWALL: Well you’re certainly making a presentation today, yes.

25 **MR BAXTER:** Although can I just say, in many cases I suggest that it’s subterfuge for having a direct meeting with you and resolving the issue as a means of creating another set of pieces of paper which hopefully will get buried somewhere and never see the light of day.

30 **MR CARMODY:** I appreciate that.

MR BAXTER: And look, I think your point is well taken. But I think this is a means of just continually deferring and deferring and hoping that it will somehow disappear.

35 **MR CARMODY:** And, something like that, I cannot believe how legislation was passed that someone’s land was taken off them, pretty much.

40 **MR LINDWALL:** We certainly - - -

MR CARMODY: I find that - I can’t believe that in Australia, and equally as well, it doesn’t pass the pub test, you know, anyone you talk to and says - you know, and I know that’s the wrong thing to use probably,
45 but it doesn’t pass the pub test. Anyone who says, you know, they’re

going to take it off you for nothing, that's not right. And I just don't - I do not understand how legislators are allowed to get away with that sort of thing. There's a lot of abuse that the EPBC Act is being used in a terrible fashion, certainly with something like this, the expansion of the urban growth boundary around Melbourne.

There's someone inside there who has taken an agenda of saying, now what do we stop on broad acre land, and that's the Golden Sun Moth, what they've discussed probably as they've done more and more work, that there's more and more Golden Sun Moth than you can poke a stick at. And unfortunately for them the more Chilean needle grass there is the more Golden Sun Moth we've got, which is an introduced species. And the frog one is you don't find - that you find a frog that might go out from land to take as much land as possible that you can. It's a very nasty technique that's being involved.

MR LINDWALL: Now, I might just say something briefly about our report in those type of areas. We did say - correct me if I'm wrong, Ken - that government agents should have better relations and learn how to understand the business of the person they're dealing with in a much better way than they have been.

We also said that there needs to be a much better balance between environmental, economic and social outcomes. That was something that was very clear and I think in our report we said sometimes there had been an over focus on the environment and an unwillingness to sacrifice any environmental benefit for even large economic gains. So I wanted to put that as a point. Could I ask firstly this declaration as a cat 1, category 1 zone, do you know when that first happened?

MR CARMODY: I think it was May 2013, now it may have happened before that but it was announced in May 2013. And with no, you know, as I said, I didn't know about it and a developer friend of mine said - - -

MR LINDWALL: Yes, but as you say there was no letter sent to you?

MR CARMODY: No, and there's been nothing ever - - -

MR LINDWALL: There was no consultation before the declaration was made?

MR CARMODY: No, nothing. And there's been no letter since. They haven't even got the courtesy, unless you find it on a website, you could be sitting there as a totally - you know, as a farmer not interested - - -

MR LINDWALL: So no one from the environment department came and said, Mr Carmody could we inspect your farm to see whether the frogs are there, before declaring it as a category 1?

5 **MR CARMODY:** No, there's been no work done. It was a very coarse ecology and heritage along with other groups like Biosis. The government use them. The developers use them. It's a really unholy alliance. It's the Winnie the Pooh thing, you know, that as you're going round and round in the same circle and you're actually not getting any - you're not doing the work.

10 **MR LINDWALL:** And it seems what you're saying is that by going to a special use zone it's a way of saying they're wrong without saying they're wrong, or - - -

15 **MR CARMODY:** Yes, that's it. There's no accounting, don't accept any risk that you might have made - - -

20 **MR BAXTER:** Can I just go back a step? Was the land originally freehold title land under the Victorian Land Management Act?

25 **MR CARMODY:** Yes, it was under the Duffy Land Act it was released with a Novel Industries Clause. It was alienated from the Crown for the specific purpose of planting grape vine. There was other novel industries, you know, that you could have had mulberry or citrus, or whatever, but it was - - -

MR BAXTER: It was freehold or a freehold title?

30 **MR CARMODY:** Certainly, yes. And to the middle of the creek, so it's a really old law title.

35 **MR BAXTER:** It's a long time since I've looked at the Victorian Land Management Act and my recollection that it had similar provisions to the Queensland, New South Wales and Tasmanian Act, that in the event of compulsory acquisition or forced change of use the government was obliged to pay compensation.

40 **MR CARMODY:** I'm not aware, that the developers that are passing land across to the government there's no compensation being paid for this. They're just transferring it so they can get on with their development. The first initial thing under the Brumby Government was apparently 200 metres either side of the creek and the Napthine Government knocked it back to 100 either side of the creek. Because I've got both sides of the creek that's - and particularly if you put two houses that have been there

for 150 years in and a winery, someone hasn't done their job. And then not only haven't they done their job they're not prepared to acknowledge that they haven't done their job. There should have been the first response of, well how do we sort that out?

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You know, and I dealt with Greg Hunt, I rang Greg Hunt and said, "How do we tackle this?" And he said, "Well, we'll take the houses and the winery there and we'll make it 50 metres along the creek", which it is in other places. But DSE just were unwilling to do it, because I think there's a broader - and certainly with the council, they'd like to take it off me for a park. That's simply what it really boils down to. And so you encumber the land and then you make it - and when I retire or whatever it is you do a dirty land grab, you know, as little a money as you can - - -

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15 **MR LINDWALL:** Or they try and wear you down.

MR CARMODY: Yes, well, that's a very - that's best of luck, you know.

20 **MR LINDWALL:** What do you - well in our report we did talk about the possibility - we asked the question about right to farm legislation, have you heard of such a thing?

25 **MR CARMODY:** Yes, I have. I think right to farm has got other issues because you can get something like, as we had with the buffer zone that they tried years ago, that it doesn't impact on your right to agriculture but it does devalue your land. So that they would have used the right to farm against me to say that further down the track it might have a different use.

30 So the right to farm has got both - but I suppose right to farm is an interesting one too with buffer zones, which can be a problematic issue for farmers' organisations, that they - say chicken farmers, don't particularly want - they want buffer zones to extend on to other people rather than them picking up the buffer zone themselves. So you can get caught with - farming organisations can get caught with that. And it's my argument - you know, the EPA would really, this is my honest opinion, the EPA, if they could have a buffer zone of 10 ks around every licence facility that they've got they'd be more than happy because there'd be no complaints.

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MR LINDWALL: Did you have anything to - - -

MR BAXTER: No. No, nothing.

MR LINDWALL: Well I think, Pat, thank you, very much, you've given us a very good case study in bureaucratese.

MR BAXTER: Yes.

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MR LINDWALL: And I appreciate very much you appearing here.

MR CARMODY: No, I appreciate your time, thank you very much. As I said, I'm very nervous about this whole thing but equally as well as a friend - and one of the issues, I suppose, for you is a friend of mine who is at Diggers Rest who has had some of the same sorts of issues as me, he said, "Why are you wasting your time, Pat? You've been to these sorts of things before" - - -

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15 **MR LINDWALL:** Well this is on the public record.

MR CARMODY: I appreciate that, I'm happy to be on the public record. I've been in the Australian Newspaper, I've been on Channel 7 News over this issue. You can put whatever you like, is why I'm happy to name and shame Ryan Smith, I - - -

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MR LINDWALL: All right, and because this is a formal hearing your comments are protected under the Productivity Commission Act.

25 **MR BAXTER:** So they can't sue you for that.

MR LINDWALL: No, they can't. You can't be sued.

MR BAXTER: Best of luck.

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MR CARMODY: Thank you, very much.

MR LINDWALL: So I think we are now talking about moving on to Justine, is that correct? Thank you, very much. Is it Justine Curatolo?

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MS CURATOLO: That's right.

MR LINDWALL: Yes, if you could just state your name and organisation and perhaps give us a bit of a rundown of what you would like to say?

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MS CURATOLO: Okay. So my name is Justine Curatolo, I'm from the Animal Justice Party Victoria. I'm the campaign manager for an Independent Office of Animal Welfare. So we've made a submission, an online submission, and that's what I'm going to talk about today. So I'm

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going to read a little bit from that but, you know, some other comments as well. So basically for more information it's in the online submission.

5 So first of all I just wanted to thank the Productivity Commission for allowing me to speak today. And I wanted to acknowledge the traditional owners of the land upon which we meet. I wanted to acknowledge the Wurundjeri People and pay respect to the elders both past and present.

10 As the campaign manager for the Animal Justice Party Victoria I want to talk about this inquiry, and I'm just going to read the letter that I wrote. "So this inquiry will receive numerous submissions and the majority will naturally be from farming and commercial interests and the use of animals for profit. Others will seek to measure animal welfare in terms of financial value only. Consequently I feel it's important to make this
15 submission to provide an alternative view where the welfare of the animal involved is a priority considering of the decisions made relating to the animal. So this submission will focus on the draft recommendations 5.1, the need for the establishment of an independent body and attempt to provide sufficient answers to the areas. So the Commission is seeking
20 feedback on; (1), the most effective governance structure for an independent body tasked with assessing and developing standards and guidelines for animal welfare; (2) what the body's responsibilities should include; and (3), what processes the body should use to inform and engage community values; and (4), how such a body should be funded. So this
25 submission is going to look at from the point of view of the Animal Justice Party Victoria and will use some Victorian examples, but we support a federal independent office as well."

30 So, and like I said there's going to be more information in the actual online submission. So do you want me to read out the draft recommendations or not?

35 **MR LINDWALL:** No. Or you can if you wish but, no, we understand this.

40 **MS CURATOLO:** All right. So this is just focusing on the regulation of farm animal welfare, which is draft recommendations 5.1. So for the information request, 5.1(1), the most effective governance structure for an independent body tasked with assessing and developing standards and guidelines for farm animal welfare. So our response is the establishment of an Independent Office of Animal Welfare, otherwise known as the office.

45 So the office could act similar to the current Child Welfare Model used by government which oversees the rescue and rehabilitation of young

5 people through the welfare system and simultaneously working with the Police Department for law enforcement. The AJP Victoria proposes the office to report to the Federal Attorney General's Department. So at the moment both state and federal reports to the Department of Agriculture. The office would have two branches.

10 So branch 1 would be the rescue and rehabilitation, and community education. This branch would essentially be the RSPCA except it would be free from any law enforcement duties. So as a result this branch would be able to form strong, long lasting relationships with the community and rescue groups and really create a ground swell at the front line for genuine prevention of cruelty towards animals.

15 Branch 2 within the office would be concentrate on law enforcement. And that will concentrate solely on charging offenders and prosecution through the Prevention of Cruelty to Animals Act. This branch would be within the police force and reporting to the office thereby giving inspectors equal powers to police, which they currently don't have. It would be modelled on the successful partnership in New York between the ASPCA and the NYPD where: "The NYPD takes a lead role in responding to all NYC animal cruelty complaints. The ASPCA provides direct care and support for the victims as well as police training and forensic analysis. The partnership continues to produce record breaking numbers of both animal cruelty arrests and rescued animals. In the first 20 six months of 2015 there has been a 28 per cent increase in arrests and 115 per cent increase in animals treated over the same period in 2014."

25 That's in New York. So just an example of why the current animal welfare system fails in Australia. So the example in Victoria is section 9 of the Prevention of Cruelty to Animals Act creates a cruelty offence for causing unreasonable pain or suffering or for acts likely to cause such pain or suffering, including failure to act by this act. However, there is exemptions for anything done in accordance with legislated code of practice or a livestock management standard. So the codes of practice are 30 policy documents endorsed by a minister and are not subject to a democratic vote within parliament unless a motion is put for their disallowance.

35 And often these codes are created by the industry which seeks to inflict cruelty on the animal to achieve maximum profit. So the Prevention of Cruelty to Animals Act is completely useless in industry in some sectors. So information request 5.1(2), what the body's responsibilities should include and whether it should make decisions or recommendations, and if the latter, to whom. So our response is the 40 Animal Justice Party Victoria proposes the management of the office

would be responsible for the coordination and development of the animal protection standards including facilitating the conversion process of the model codes of practice to standards and guidelines for farm animal welfare among others.

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The requirement of the minister to table reports in parliament would provide much needed political representation for animals and facilitate political debate on animal protection issues. The office would be protected in statute, including its funding and independence. So one of the current problems is that currently the RSPCA sits within the Department of Agriculture which is responsible for the farming sector and animal welfare and this arrangement is problematic and disadvantageous for animal welfare for a number of reasons. The two primary reasons is a conflict of interests, which are documented throughout the Productivity Commission report so I won't go into that, and the problem of industry influence. So which is documented throughout your report as well, which is good.

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Information request 5.1(3), what processes the body should use to inform and engage community values on farm animal welfare. So the AJP Victoria proposes an additional model incorporated into the RSPCA, so branch 1 of the office, in terms of the community engagement with respect to identifying and then responding to low level animal cruelty concerns. So we have come up with this model which has site pods of volunteers which are based on and around local areas. So they're going to work more with the community, so take the responsibility off the inspectors so that they can handle more of the high level cruelty complaints rather than inspectors having to respond to low level stuff.

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So quite often you've got incompetent cruelty, which is people have a drama in their life and they're unable to feed their horses or whatever. So it's about getting the local community members, volunteers, helping that person out through that period of time so the horse doesn't suffer and then that person doesn't have a conviction against them. So that would help to ease the workload. That would still be managed by the RSPCA, which is in the branch 1, but that would significant feedback both ways from the community.

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And we also acknowledge that the models that they use overseas in the United Kingdom and Austria, which are two countries which I've given as examples. So for example, in the UK there are requirements set out - the reason why I'm using the UK and Austria is the World Animal Protection ranks each country of A, B, C, D, and Austria and the UK have both got As in their community consultation areas. So in the UK there are requirements set out in legislation for consultation of various stakeholders.

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5 These include requirements under the Animal Welfare Act for the government to consult such persons appearing to the authority to represent any interests concerned as the authority considers appropriate before making secondary regulations on various issues. The UK Government has established advisory bodies that include a wide range of stakeholders interested in promoting the health and welfare of animals.

10 In Austria there are two NGOs are represented in the Animal Protection Council established under the Animal Welfare Act. Several universities and research centres are also represented, as are business and agricultural associations. Animal Welfare Ombudsman and representatives of each state also sit on the council. And there's more information in the submission about that.

15 Information request 5.1(4), the fourth one, so how such a body should be funded. An amount of government funding which is protected in statute is necessary for the establishment and ongoing functions of the office. It will also need to provide indemnity, as it does with other government agencies and which the RSPCA does not currently have and it makes it extremely vulnerable to court losses. So recently they after a long, lengthy time in court and stuff like that they lost their appeal and so now they have a 1.5 - well, just over a million dollars' loss, which is now comes out of their budget whereas other agencies don't have that and it's wrong.

20 However, due to the proposed functions of the office a reasonable portion of it could be self funded through fines, court wins, partnerships with animal rescues and rehabilitation agencies. Charges for fees and services as well as any fundraising or membership fees raised for the rescue, rehabilitation, education section of the office. The current animal welfare system in Australia is that the RSPCA is responsible for all breaches in animal welfare law through fines, penalties, and court costs awarded. However more needs to be done.

35 For example, the RSPCA in Victoria prosecuted less than one per cent of all animal cruelty complaints received. So of the 19,461 animal rescues and cruelty offences reported, RSPCA finalised only 69 prosecutions. The RSPCA conducts and funds its own prosecutions. Occasionally a court will order people found guilty of animal cruelty to make a donation to the RSPCA or order them to pay part of the RSPCA's costs conducting the case. However all court ordered fines as opposed to donations or court costs are paid to the government and not to RSPCA Victoria, so there is a massive disincentive there.

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5 So finally I will just finish with the experience in Austria. In Austria the Federal Ministry of Health is responsible for animal welfare issues. The government has confirmed that the Federal Ministry of Health works with the Federal Ministry of Agriculture Forestry Environment and Water Management to reach agreement as far as animals kept for farming purposes are concerned. The administrative framework is comprehensive. Responsibilities for enforcement are clearly delineated in regulations and human and financial resources allocated to this administrative framework are sufficient for improving animal welfare.

10 And the experience in the United Kingdom, in England the Department of Environment Food and Rural Affairs has responsibility for animal welfare other than scientific research. The Secretary of State is identified as responsible under the Animal Welfare Act. Animal welfare is one of the top priorities highlighted on the department's website and is one of the issues highlighted in the UK Coalition's Government agreement. The department funds research into animal welfare and protection and has established an animal health and welfare board for England comprising of a range of stakeholders. There is also a clear budgetary allowance for work in this area. So in England in 2011 and 2012 they allocated £105 million to spend on animal health and welfare.

25 So as you can see Australia has a long way to go before it can be seen as a world leader in animal welfare. However we are really pleased with what the Productivity Commission is doing, and especially the recommendations you've made for the body, and we hope you add the word, "Independent", to it but I guess, you know, through the recommendations and stuff it seems like that's sort of the way you're going. And we think it's a step in the right direction and one which is strongly supported by the Animal Justice Party. Thanks.

MR LINDWALL: Excellent. Well thank you, Justine. Could I ask a few questions and then get Ken to ask some questions?

35 **MS CURATOLO:** Yes.

MR LINDWALL: Firstly, obviously the governance of such an institution is important.

40 **MS CURATOLO:** Yes.

MR LINDWALL: And general good practice is that people appointed to such organisations should not be representing something, they should be representing the interests of the organisation that they are appointed to. So if you are a member of a board of directors of, you know, Coca-Cola

then you represent the interests of Coca-Cola and not any other secondary interests.

MS CURATOLO: Yes.

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MR LINDWALL: Would the Animal Justice Party, so your organisation, would be happy with that? Would be that if people were appointed to - well we should think of a name, that they actually work for that institution, that statutory body - - -

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MS CURATOLO: The office.

MR LINDWALL: And not represent some other third party.

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MS CURATOLO: Yes, I guess it - - -

MR LINDWALL: In other words they have to change hats, if you like, and - - -

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MS CURATOLO: Well I guess at this stage a lot of animal welfare institutions and stuff like that are sort of fairly weighted with industry with people with industry backgrounds and stuff like that so they've got a conflict of interest, so I guess what - - -

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MR LINDWALL: Well it has to be declared as usual if you have a conflict of interest.

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MS CURATOLO: So I guess if what you're saying if there could be some genuine true independence, then absolutely, I think that would be good. It clearly works in other countries so there's no reason why we can't do it here.

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MR LINDWALL: And in terms of statutory independence, well you can go from being a government agency which is part of a department, there's a lot of examples of that. You can have a statutory independence such as the Productivity Commission which has its own Act, that's probably the most independent from you, obviously you're clearly in favour of the latter. And then you come down to the appointment of the people who work at the statutory institution in the case here where commissioners under the Act would have a certain tenure, in this case five years, that could be part time or full time and so on, that's the type of thing that you would envisage for this, I guess?

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MS CURATOLO: Yes.

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MR LINDWALL: And then you can take it another step, say the ACCC, you know, the Australian Competition and Consumer Commission?

MS CURATOLO: Yes.

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MR LINDWALL: Commissioners for that have to reach a number of votes in the state jurisdictions and the argument being that because it's a federal body covering state issues as well that the states have to support whoever has been appointed, do you think that would be the type of thing you - - -

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MS CURATOLO: I think all of those things could be fine as long as, (A), they're democratic, and as long as the people who are voting are also people from a range of stakeholders and not just key industry people and that sort of thing. So, you know, animal welfare organisations and other people that have got a genuine interest in rescuing animals - - -

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MR LINDWALL: New Zealand has got an - what's the one called?

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MR BAXTER: NAWAC, the National Animal Welfare Advisory Committee.

MS CURATOLO: Okay.

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MR LINDWALL: Yes, and this is my other question of what it's about, the power of it. The PC, we don't have any powers, we can't do anything, we just advise.

MS CURATOLO: Yes.

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MR LINDWALL: And the same with NAWAC in New Zealand, it has only advisory powers. And when Ken and I visited them a couple of weeks ago we were told that that is important because they have built up a level of credibility over more than a decade and they have veterinarians on it, they have a very good balance of people on that who have different perspectives, but they only have advisory powers. And that has the advantage that they don't get so politicised as they might have if they actually had formal powers to do something, order things. So would you be happy with that?

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MS CURATOLO: I think personally it would be better to have the powers. I think it can work. For us the big thing is separating the law enforcement and the rescue and rehabilitation. So once the law enforcement is separated then they've got a lot more power, they can also self fund through some of the cases. And like you see in New York which

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does it, it actually works and it works really, really well. And I think that would take away - in Victoria there is a massive concern around, like, for example, where do they fall, are they companion or are they livestock, right?

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MR LINDWALL: Yes.

MS CURATOLO: So no one wants to deal with them. And so you get these massive cases like we've had recently with Bulla and then the one in Ararat where there's a hundred horses. It should never have got to that. It could have been stopped at ten but no one wanted to step in. So I think if things are much more clearer and we have separation of powers I think it would be better. So I think the statute would be better but I think if you were going to do an advisory committee then as long as they had power and they were protected and the government couldn't disband them like they did with the - - -

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MR LINDWALL: It's statutory like the - under its own Act. But then you said in your submission that it should report, or it doesn't report, it should be in a portfolio, the Attorney General's Department portfolio. It's a bit like the Productivity Commission is part of the treasury portfolio, it could be part of the industry portfolio. In fact it was originally. And you think that's important and you choose the Attorney General's mainly because it's - - -

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MS CURATOLO: It's not a steadfast thing, that was the one we've chosen, there's quite a few organisations that have chosen to lead animal rights organisations that have chosen other ones. Austria have it under Health and it seems to work really well. The point was the Attorney General was sort of the preferred one because we want to separate law enforcement and that way it's a bit more under the same sort of thing. But if it were to be placed under Health or even environment as long as it still had the independence and the protection it would be okay, so.

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MR LINDWALL: I think independence is, and public reporting is, very important. Anyway, Ken?

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MR BAXTER: Does your proposition incorporate the Companion Animals Act that exists in Victoria into a national body or would that remain within the jurisdiction of Victoria?

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MS CURATOLO: I haven't thought about that but I think, as I understand it, animal cruelty laws are enforced at a state level so I guess that's a way it would - if we had - having a federal body would be really good because we have people who abuse animals, like the lady in Ararat,

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5 she abused a whole lot of dogs and stuff in Adelaide and she came to Melbourne and did the same thing with horses and there was no way to connect the dots, right, so if we had a federal jurisdiction - if we had a federal body and then we had state bodies as well but they were able to talk to each other, I think that would be good. I don't know if that answers your question?

10 **MR BAXTER:** Sort of. Does the RSPCA in Victoria go much beyond the exercise of supervision, oversight, and related issues on companion animals compared to what I might call farm animals?

15 **MS CURATOLO:** So the problem with the RSPCA is that they get a small amount of funding from the government, right, so the rest depends on what they can fundraise and what their resources are. So they're widely publicised as saying they're under resourced for doing a whole lot of stuff, they can't do a whole lot of stuff. So they've received some more money in Victoria because of the puppy farm thing, right, so they've got money specifically to address puppy farms, but they're still - there's still nowhere near enough in terms of like community education, follow up and all that kind of stuff. So things usually wait until they get in the news before they're really big before they act, whereas there could be so much more they could do at a lower level in terms of for companion animals, that could make a big difference.

25 **MR BAXTER:** Do you have any knowledge of what the current staffing levels are of RSPCA in Victoria? I mean, not down to the last person.

30 **MS CURATOLO:** I met with Dr Liz Walker and Jon McGregor maybe five months ago to discuss the Independent Office, and I can't remember the exact number, they're just not - their budget was 33 million last year, this is the RSPCA of Victoria, but they still made a loss of about one and a half million. So there's a lot of money going in, it's just - and they actually rescued less animals than they did the year before yet they had more money, so I think it comes down to management and how they're spending it. Because they've built this massive big centre in Burwood but yet they don't have RSPCA centres in Shepparton or in Geelong, so there's animals in areas which are missing out, which is their legal responsibility. So the money is not very well spent.

40 **MR BAXTER:** And I mean, it's an unfair question to put to you but - - -

MR LINDWALL: You're going to do it anyway.

45 **MR BAXTER:** But I'm going to do it.

MS CURATOLO: That's all right.

MR BAXTER: But presumably a similar situation would exist with the RSPCAs in the other states?

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MS CURATOLO: Yes. So the RSPCA - - -

MR BAXTER: I mean they're all on a voluntary basis and given recognition by a state government.

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MS CURATOLO: So the RSPCA, so last year there was the Greens put forward to build the Independent Office of Animal Welfare so the RSPCA Australia submitted a response and they are calling for an Independent Office of Animal Welfare. So they want a federal one but they also want each state to have one as well. So the RSPCA support that.

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MR BAXTER: Okay. That's all I have.

MR LINDWALL: In terms of where do you think, can you give an example, where there's a conflict between animal welfare standards and community expectations of animal welfare?

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MS CURATOLO: Well federally I guess - - -

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MR LINDWALL: Well it doesn't have to be federal.

MS CURATOLO: Okay, well, I guess when it comes down to if you want to see, an obvious one would be the caged hens. So through big marketing campaigns through like Animals Australia it's been really, really effective about forcing business to abandon caged eggs and go to free range - or alternatives, because the community doesn't want to buy products that have resulted from animals suffering. So that's a community expectation. And I think that's actually been really effective. That's just one. But there's obviously a whole lot of others as well.

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MR LINDWALL: And could you see this organisation that we're talking about, an independent agency, having a role that if the science of animal welfare said that this practice is actually better than this other practice but the community thought that the other practice is actually one they prefer to help educate the community as to what the actual practice would be best?

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MS CURATOLO: Yes, absolutely. And I think it would also be better for farmers and agriculture industry as well if we had something which wasn't so, you know, convoluted and so tied up in controversy all the time

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5 and stuff like that. I actually think a lot of farmers want to do the right thing by animals and they want to do all this sort of stuff but they're spending so much time having to justify the negative side of things. I think if all that was taken off them and if there was a body that could do this I think it would make a huge difference. I mean obviously for the animals, which is what I'm speaking on behalf, but I think it would actually help the industry as well.

10 **MR LINDWALL:** Is there anything you want to comment on live exports while I've got a few more minutes?

MS CURATOLO: Okay, it's - - -

15 **MR LINDWALL:** Like an ESCAS, do you think that's led to an improvement in animal - - -

20 **MS CURATOLO:** No, and I think it's - I think the live export industry is a massive disgrace. And it's really interesting, so there's been quite a few protests around Australia where the animal rights groups have actually partnered up with the Meat Workers Union because the Meat Workers Union are concerned about the jobs that are going, so it's weird that we're seeing these partnerships between the two groups saying that live export has to stop.

25 And obviously we're seeing the massive outcry, we're seeing all the breaches of laws, have seen the animal - the export companies themselves, I think it was Wellards, anyway, coming out themselves and saying that this is wrong and all this kind of stuff. And I don't know what it takes for our ministers who are voted in by us, who are supposed to represent us, and yet still are choosing not to, to go ahead and do this. So I don't, you know, the role of a politician is to represent the people and when the people are saying they don't want it and yet they're still going ahead and doing it, I don't know what it takes.

30 **MR LINDWALL:** Ken, did you - - -

MR BAXTER: No, I've got no further questions.

35 **MR LINDWALL:** Any final points?

40 **MS CURATOLO:** No, that's it. I'm really pleased and excited that you've done this and hopefully something good will come out of it.

45 **MR LINDWALL:** Well thank you very much for appearing.

MR BAXTER: Thanks, Justine.

MS CURATOLO: All right, thanks for that.

5 **MR LINDWALL:** All right, well I think we've got Farmer Power now is
for 12 o'clock, which is right now, basically. So is Farmer Power over
here, which is we've got Jane, Alex and Alan, is that right? If you could
just say your names for the record and the organisation, tell us a bit about
10 it, and what your objectives are and a bit of what you would like to say
and then we can ask some questions, if that was all right with you.

MR ROBERTSON: I'm Alex Robertson, vice president of Farmer
Power. We basically are a voluntary group working on behalf of dairy
farmers. We have approximately 7000 followers and other people,
15 including media outlets and stuff that seem to be following us. We have
issued over 50 briefings on ideas and structures and things that are going
wrong with the dairy industry that we feel that we can improve. We
basically have put a series of issues and recommendations to the
Commission on stuff that we believe that needs to be changed in the
20 industry.

We have a situation at the moment where we have - some would say
it's a free market. It depends on which view you are, if you're a
supermarket you will consider it a free market but if you're at the other
25 end you won't. So in some ways we feel that the industry has reregulated
itself from within to the disadvantage of the farmer and we would like to
see some changes inside that industry to make sure that everyone has a
fair go. So that it can operate properly. We believe that when the industry
was deregulated 17 years ago that the appropriate checks and balances for
30 that to operate on a long lasting function were not there.

So for example, we're seeing things like, well, claw backs or
reductions, step downs, whatever you like to call them, that are basically
35 being issued on the back of a false premise or belief of what the
environment was at the time. So we would like some sort of clearer
recommendations or codes of conduct into that so that we can ensure that
not just the farmer but also the supermarkets and the processors can
behave properly and get an equitable outcome for all. So we basically
40 have no collective bargaining power.

For example, at the moment they say that there's a glut on the world
market for milk, well, I can tell you that the drops in productions between
all factories range from 10 to 20 per cent at the moment and yet there is
45 still no movement that people can go from one to the other factory at the
moment. So myself included, I'm pinned to one factory that can't move.

So for the fact that there's a shortage of milk actually in this country excuses are being made for getting out of people holding up their obligations to the industry.

5 Now, the code of conduct was that in that area that we would sort of like to touch on. Also there's other areas, including Dairy Australia, which is an industry in itself that we believe is not functioning properly in the course of what it needs to do for farmers. It basically hides behind the Corporations Law in terms of the way it operates requiring all farmers to
10 pay a levy to this organisation yet it is not required for all farmers to basically be what they call a member of it but yet the obligations now under the law that's just passed requires them to have three times the amount of an average corporation's right and share - how would you say it, say, or votes, to change anything in the company going forward.

15 So for example, at the recent poll that's about to be conducted that has been half stacked with industry directors that are actually in Dairy Australia and stuff like that, we think they all should be independent and people that are not part of the industry, because if they're the ones going
20 to formulate the questions that are going to be put to the farmers, and it's the farmers' money and the farmers' organisation, we believe that they should be the ones having the whole say and be able to be manipulated by the people that are actually being paid by Dairy Australia in the first place.

25 So we think the farmers should have a right on whether they contribute money to Dairy Australia or not, and we believe that there probably needs to be some sort of investigation by the Productivity Commission on whether or not this body is actually doing its job for the industry. So for example, in the last 17 years we've actually gone
30 backwards in production, we're actually losing farmers. All the, what would you call them, the things that the government - that the company organise that runs by the, what do you call them, codes of - - -

DR STANLEY: Codes of practice?

35 **MR ROBERTSON:** Yes, that Dairy Australia run by, basically haven't really adhered to. So they haven't really made the industry more profitable. The milk flow, the exports have actually dropped from on a percentage basis of 50 per cent down to 30 per cent and will probably be
40 lower if the situation with cow culling continues. So we're worried that within two years of this we could actually be importing product more than what we can supply. And we don't believe that there's been enough attention paid to that.

5 We've recently had discussions with them and those discussions were left somewhat wanting. We asked them about a number of different areas including product that was being dumped here from through New Zealand and repackaged here. A basic shrug of the shoulders was all we seemed to get from them. So we don't sort of seem to believe that this organisation that is set up there to advise government and provide some sort of research and development, which is also becoming less, so they're basically now turning into a delivery vehicle for financial and personal counselling, rehashed old programs. There are no new programs that seem to be coming through and they have recently just wound up a research and development body that we thought was delivering some good to the industry.

15 We believe that we really should have a good look into this organisation and see if it is really providing benefit to farmers and also if it really should be mandatory that farmers contribute to an organisation that they don't believe is doing that. For example, I run my business. I pay \$20,000-odd into this organisation and I believe I can get more out of my business with that kind of money than what these people are delivering. That is basically what I would like to see changed on it.

25 We think that in some areas also with the disadvantaged practices that some of the processors are delivering towards farmers - contracts that aren't being honoured, loosely supplied contracts or supply agreements, as they are called, that are being delivered, basically aren't worth the paper they are written on. The farms really have - like in the situation that we have got now they do not have the money to fight these actions in court.

30 We need a proper body that can actually address these issues or in the code of conduct that sets out that farmers don't have to keep dipping into their pockets when they have got nothing in them to try and fight something that is wrong, because at the moment that avenue is just not available to farmers. That is about what I would like to say, Alan.

35 **MR SYMONS:** Yes. I have just come down here for the - I am not used to dealing but we need somebody from the outside to look into the dairy industry. The farmers are getting crippled at the moment. I got up this morning at 4 o'clock in the morning, got the cows in and milked 360 cows. We drove two and a half hours to get here. We will do this, have a little bit of lunch and we will go home, get home at half past four. I will go and get the cows and I milk the cows. We do that 365 days a year and I am not complaining about. It's the lifestyle I chose. We do that seven days a week, 365 days of the year.

45 We haven't got time to run the industry as well. We are that busy on

our farms and every farmer is the same. We haven't got the time to keep these guys - hold these factories and that to account and the supermarkets to account, and we are getting trodden on. We are getting stomped into the ground. Two or three years ago the industry produced 12 billion litres of milk. This year just gone the industry is down to about 9 billion litres of milk and it looks to fall another 20 per cent this year. The organisations that are supposed to be representing us are not doing their jobs. Dairy Australia takes mandatory levies off every farmer to the tune of \$35 million a year and then it's met on a dollar for dollar basis by the government. This money is being wasted.

It was to improve the profitability of dairy farming and to grow the business. They have failed miserably since they have been started. This money is getting wasted and they seem to pander more to the supermarkets than they do to the farmers and we are the ones who pay the money. The other thing is the processors are just stomping all over the dairy farmers and the contracts for the agreements that we have been - we have to sign, have no value in it to us whatsoever. It's all one way. I have brought a couple along here just to show you - just there briefly on the bottom - this was a contract when the Murray Goulburn - I don't know whether you are familiar with what has happened with Murray Goulburn and the state of the dairy industry at the moment - - -

MR LINDWALL: We were talking about it all the way back yesterday.

MR SYMONS: This agreement here is from Warrnambool Cheese and Butter Factory. The reason there is a bit of a gap in this, I have taken the names and that off the contract. As you will see down the bottom there in the little grid - the Warrnambool Cheese and Factory out of this were the good guys. They didn't drop the milk price or bring a claw-back in. If you were to change factories - they only took about 80 suppliers - but if you were to go across to them, you will see down the bottom that if you were to leave in the first year you have got to pay back - and supply two and a half million litres, you have to pay back \$156,000. In the second year I think it was eighty something and the third year fifty.

Nowhere on that contract does it say how much they will pay you for your milk. All they are obligating to on that is to say that we will pick your milk up but if you leave us after the first, second or third year, this is what you have to pay back. I spoke to a lawyer about this and he said, "Well, the problem is if you need to get out of Murray Goulburn otherwise you are going to go broke, commercially you need to sign that". To me, a contract is supposed to have five or six different elements in it, that it works for both sides, the parties. At the moment, and this has slowly got worse with deregulation. We are getting corporate thuggery on

the farmers but you sign that. In 12 months' time we can be 30 per cent below the next factory. You have got to pay that out before you leave.

MR LINDWALL: This is a non-negotiable contract, take it or leave it.

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MR SYMONS: Take it or leave it. We have had one guy - he brought that contract to me basically in tears. He said, "What do I do?" He said, "This isn't ethical but we're leaving Murray Goulburn because they're not ethical either". He chose to stay with Murray Goulburn and the subsequent prices that have come up - this is going to send him to the wall.

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Before this started we were getting - before this claw-back - I don't know whether you understand how the claw-back - we were getting about 55 cents a litre for our milk, between 50 and 55 cents a litre for our milk. Then 10 months down the track, knowing that the price signals were not good, that they should change what they were paying. Because they floated the company, they were saying to the shareholders, "Yes, \$6 is fine. We are going to pay out our farmers at \$6" - - -

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MR LINDWALL: This is Murray Goulburn, is it?

MR SYMONS: To go back a step. At the start of 1 June, milk companies came out with what they call a base price, so for the worst scenario, that is all you will get paid for the year, and Murray Goulburn opened at \$5.60. That was the base price. It's usually expected that throughout the year they will have step-ups. Two or three years ago they had a step-down where they got a few months into it and said, "Listen, the markets have gone bad, we are going to have to step-down, so going forward your price is going to be lower".

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Never before have we had a claw-back where they went 10 months into the year and then said, "You know what, this isn't good. We've stuffed up financially" - through incompetence on their management - have said, "We need to claw-back money so we are going to retrospectively change the opening milk price from 10 months ago and we are going to make it \$4.75. Not only that, because you've already been paid that money and you've spent it, you have to pay it back to us". They said, "We're not total pricks, we are going to loan you the money, with interest, to pay back the money that you've already been paid".

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MR LINDWALL: What interest rate?

MR SYMONS: Apparently, I hear it's about 11 per cent which is just absurd. We can't do a thing about it. We can't do a thing about it. At

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5 this point in time we are still waiting to see whether it's legal what they have done, and if we can't get blokes like you, we haven't got time to do it. If we can't get people in power to keep these guys under a code of conduct so this can't happen again - just in my area I know of five herds that have been slaughtered because it was going to cost them more to produce milk than it was to get their heads cut off.

10 If the milk price comes good next year they can't start up. It takes three years to rear a calf to cow to be able to start producing milk. So they are out of business, they are gone. In the last three or four months we are losing a whole generation of farmers that actually had just purchased the herd and spent 10/12 years acquiring their herd and now they have lost - they got to this stage if they are supplying Murray Goulburn, you can't go to another factory because all the other factories are full so they are stuck there. They can't go anywhere, so they have decided to slaughter their herds to get out because meat prices are actually quite good at the moment, so they are slaughtering the herd.

20 We are losing a whole generation of farmer. This isn't just going to hurt now but in 10 or 15 years' time when blokes my age in their 50s want to get out of dairy farming, there is going to be nobody to take over them, that is if they are still - if it keeps going the way it is, there won't be anybody left anyway and we will be importing all our products from New Zealand. We need you blokes, and I have virtually come with cap in hand to say to you blokes, "We need a bit of regulation. We needs some checks and balances in these companies to stop them screwing us over".

30 **MR LINDWALL:** Remember just before we go on that the Productivity Commission is conducting an inquiry into agricultural regulation here and we make recommendations to governments. We don't have any formal powers to do anything. You do realise that.

35 **MR SYMONS:** Yes, I realise that but we need you guys to go to government and say, "These factories need to be held accountable for what they are doing". We need some regulation in the dairy industry to hold these guys accountable.

MR LINDWALL: Did you want to say anything?

40 **DR STANLEY:** Yes. I just wanted to outline a few things. In terms of the terms of reference for this review, we have every sympathy with the Productivity Commission. It's very, very broad, you've got a very limited time to do it, but we do feel that there are some aspects of the terms of reference that have not been addressed in the report which would have been very helpful to this particular sector. We think the Productivity

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Commission should be concerned about it because it's a matter of productivity. This industry is just disappearing before our eyes. Productivity is already slashed.

5 One of the aspects that hasn't been looked at is the submissions to the white paper, and that was in the terms of reference. Farmer Power put in a very detailed submission to the white paper outlining the restrictive practices in the industry, the way that, as Alex said, it's started to be regulated from the inside. The regulations imposed in the creation of
10 Dairy Australia which put this huge financial impost on dairy farmers, despite the fact that it's run for the interests of the processors, so we think that that should have had some weight. We weren't asked to contribute to the report so we are coming in at the end, but as a major contributor to the white paper submissions, we would have thought maybe we should have
15 been asked.

MR LINDWALL: We invited submissions so maybe you hadn't read about it or something.

20 **DR STANLEY:** No, we didn't.

MR BAXTER: They were pretty broadly broadcast as well.

25 **DR STANLEY:** Sorry, it escaped our radar.

MR BAXTER: Anyway, it's regrettable that that happened but you're contributing now so that is good.

30 **DR STANLEY:** One of the other aspects that the Productivity Commission has looked at, we believe, is consideration of overseas models which is in its terms of reference. I understand that looking at deregulation is perhaps a grey area, although I would have thought it would be within your terms of reference to look at the impact of deregulation because that clearly has a bearing on regulation generally,
35 but in looking at overseas models you would see that there are some overseas models where deregulation could have been handled a lot better in Australia with less severe impacts.

40 Some examples are: in the United States where they are looking at insurance schemes against fluctuating price; a futures dairy market in the UK, they have got assistance for floor pricing dairy in collaboration with industry. So there are a number of overseas models and it would have been very helpful if the Productivity Commission could have a look at those overseas models. There is also a sort of dismissal of the
45 co-operative culture in Australia which, for the dairy industry, doesn't

make any sense at all and this has a bearing on the Productivity Commission's observations that they don't think there is much point in amending consumer law to allow for operation of co-operatives and collective bargaining.

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MR BAXTER: I think we were just sceptical about whether it would actually make much difference in practice. Maybe it will, but - - -

10 **DR STANLEY:** Yes. Well, the Dairy Australia has been founded in co-operatives and - - -

15 **MR LINDWALL:** There is a very big difference between overseas co-operatives in, say, the US which have been, as far as I understand, all voluntarily based, whereas Australia's tend to have been statutory based and for some reason, and I think - - -

MR BAXTER: Could we park that for a moment and let you finish and then come back together.

20 **DR STANLEY:** The co-operatives that exist at the moment - a lot have disappeared, it's true. I don't think that it would be true to say that they were compulsory co-operatives and dairy co-operative. They were founded by farmers. Norco is a very successful co-operative. It's actually paying the best price to farmers in terms of the farm gate milk price, so
25 that still operates.

30 It's doing better than most other processors in New South Wales. There is a milk pool that is operated from Queensland but which goes right through New South Wales and into Northern Victoria which seems to be very successful. That is certainly a voluntary co-operative so it's purchasing milk and then acting as a broker in selling to the processors.

35 Murray Goulburn clearly was a co-operative and farmers were shareholders but it seemed to lose its way and of course now it's formed a unit trust within it. There are enormous conflicts of interest between serving the interests of the shareholders and the farmers. I don't think it's true to say there is no appetite for co-operatives within the dairy industry and we know there is a lot of interest from farmers now in this crisis in
40 looking at new co-operative structures. The proposed amendments to consumer law that would allow for better collective bargaining and also provide stricter rules for unconscionable conduct by processors.

45 We are not sure why the Productivity Commission is arguing against it, it seems not to be evidence based which is what we would have thought the Productivity Commission should be focusing on. I know we haven't

got long to speak but Farmer Power has been pushing for an independent review of the dairy industry and we believe that that is absolutely fundamental. The problems are complex and you really need to get to the bottom of what happened in deregulation and how it's gone off the rails and why it's producing this plummeting productivity at the moment.

We have thought that the Productivity Commission would have a great role in conducting such a review but we believe the Productivity Commission's role should be to provide a good evidence base and, as I have said, there are some areas where we think the evidence base for the observations made in the draft report are lacking, and if we can provide some information to supplement those gaps then we are very happy to do so.

MR LINDWALL: Shall we proceed. Thank you very much. Getting back to the consumer law changes, the Competition and Consumer Act, I think our reading was that we were a bit sceptical that it would actually lead to the benefits that were claimed for it. Maybe we are wrong, but that is what we said in the draft report. We didn't say it shouldn't happen, we just said that people who are thinking it's a silver bullet may be mistaken, maybe reading too much into it. Dairy Australia is a compulsory levy as you say. What would be the implications if that were to be a voluntary levy instead of a compulsory levy?

MR ROBERTSON: I think at the moment their performance has been somewhat suspect because it is a compulsory levy. If everyone else has to compete in a marketplace on a competitive basis then why shouldn't this organisation.

MR BAXTER: I have just come into some of the details of that. Sorry to interrupt but my understanding is that, compared with the old dairy industry levy that existed in the late 1980s/1990s which was a compulsory levy which was collected by the Australian Dairy Corporation with the support of Commonwealth legislation, went into a fund that was controlled by the Department of Primary Industry in Canberra and was then dispersed to a range of institutions within the dairy industry.

My recollection is, and I could be wrong, but in the late 1990s/early 2000s, the dairy industry itself requested that the compulsory collection by the ADC be dropped and that the dairy industry would meet on a regular basis to elect the members of the board of what has now become, I think, Dairy Australia, and at intervals - I think it was, what, three or five years that the producers - there was provision for the producers to vote as to whether the levy should continue at all and if it should continue, then the rate at which the levy would be raised. Is that the current situation as it

still stands?

MR ROBERTSON: Not quite. I think at the last one they took the no question off the poll and we suspect that that will not be an option to us again this particular time. I think that the way that they have set it up now, they have changed the formula in the way that people are elected to a committee now which then has to formulate the questions and out of those 5 15 people, six of them are either Dairy Australia or Murray Goulburn or ADF. One of those people exactly is not even a farmer at all. Two of 10 them are actually, the one at Murray Goulburn and one of the ADF is not a dairy farmer at all. Also, the perceived conflict of interest on that board to what the decisions that they want to see made, given the fact that Dairy Australia itself will have a \$9 million hit this year, the expected rate of drop that is expected to go through and what we see in cattle sales, for 15 example, Dairy Australia is blindly, I believe, saying that we are only going to get a 7 per cent drop.

If we are seeing volumes go through the sale yards at 20 to 25 per cent, we see some processors running at between 10 and 18 per cent drop 20 over the last two months, we can say the figure of 7 is looking a little bit pie in the sky-ish. We could probably see them having an \$18 million hit this year. They will want to formulate their questions in a way that will want to see a guaranteed income. Now what happens is that of every five years, if there is no change, what could happen is that there will be no vote 25 asked for unless farmers can provide 15 per cent of the share equity in the company to change that. Whereas in normal businesses I think it's about 5 per cent. Is that correct?

MR LINDWALL: I think that might be right.

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MR BAXTER: I'm not sure.

MR ROBERTSON: It's three times. I think Senator Leyonhjelm - - -

MR LINDWALL: This is Dairy Australia we are talking about.

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MR ROBERTSON: Yes. This is the way it operates in other corporate governance system.

MR LINDWALL: What you would actually like to see is a move to voluntary levies and a competitor to Dairy Australia being established or something like that which is more representative - - -

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DR STANLEY: I just wanted to explain that there is more to this in terms of the way that Dairy Australia is now governed. The governance 45

5 structure has been described by others in public as being similar to the government of North Korea. The actual election process which many farmers have witnessed, is that for farmer representatives to be added to the board of Dairy Australia, their names have to be selected by a selection committee which is dominated by the processors. It is a secret process and at the annual general meetings usually there are, you know, one or two vacancies and one or two names put up and there is no election.

10 **MR LINDWALL:** And a white puff of smoke comes - - -

DR STANLEY: So it is a closed shop.

15 **MR ROBERTSON:** The whole lot is just so in-house it's unbelievable.

MR LINDWALL: Well, you have a classic case there of, in economics, a principal/agent problem, where you are the principals and the agents aren't representing your interests.

20 **MR ROBERTSON:** That is correct. Absolutely.

DR STANLEY: So if the levy was voluntary, I think it would be a big shakeup for Dairy Australia to have to be accountable to the farmers who fund it.

25 **MR LINDWALL:** Well, competitive, yes.

MR BAXTER: If there is to be a vote on the levies and they are both in turn - - -

30 **MR ROBERTSON:** Well, this is correct, and what I was trying to say to you before, given the circumstances of what is happening in the industry at the moment, one of those questions could very well turn out to be like the CPI increase question. If that was the case and they were to say one of the questions - they might take it down to two questions, who knows? Whatever the board comes up with is what the questions will be. The worst case scenario is they could say, "Dairy Australia would like to put the question out that we have a 5 per cent increase every year", which they would be very happy with, and if people are silly enough to vote for it then they would not have to go back and ask the question in five years' time, the next five years' time, and the ability for us to stop that would be so enormous.

40 **MR LINDWALL:** Yes, exactly.

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DR STANLEY: And the more production drops, the remaining farmers are going to have to contribute to make - - -

5 **MR ROBERTSON:** The other problem with this voting situation with Dairy Australia is that we could have - it's based on how many litres that you supply. We could end up having 15 per cent of the industry voting for 100 per cent of the outcome. If it was made mandatory that all farmers voted for it, and one vote per farm, we would surely have a more democratic system. To have a system where you can have, say, 15/20 per cent of the industries' biggest farmers that get looked after the most, can basically decide whether they increase, reduce or disband it is really undemocratic.

15 **MR LINDWALL:** This goes back to my original point when I was saying that I understand the difference between the US and Australia, that co-operatives in the US were voluntary and therefore the levies are not mandatory. You either perform and you support them or not.

20 **MR BAXTER:** The system in the US - - -

MR BAXTER: I know it's a different system. That one is New Zealand or Canada. Might I just come back over the levy rate. My understanding is that when they go to the polls - in my understanding, they are obliged to send two sets of papers to all registered dairy farmers.

25 **MR ROBERTSON:** That's correct.

30 **MR BAXTER:** And one paper will relate to the election of the board of Dairy Australia which supposedly is to represent the interests of dairy farmers, particularly in research matters, dairy research, which is then allocated back to state or regional instrumentalities. The second one relates to the actual membership of the board.

35 The dairy industry has been a bit like a whole lot of other things, including some unions, in which clearly people at the top look after each other and you get a set of people in moto perpetuo, if I might describe it. The meat industry about three years' ago went through a similar problem and there was sufficient pressure from groundswell to force the meat and livestock corporation or its successor to actually make sure a full poll was conducted and it wasn't to be done by a cosy group of people sitting around a bar somewhere between Rockhampton and Sydney. I think that we would need to have a look at that.

45 Can I ask one other question? My experience with the dairy industry has been that you people are probably several degrees smarter than most

of your compatriots in the other livestock industries and it would also seem that there were signals arising particularly with the readjustment of the industry and the acquisitions that Murray Goulburn got into when they bought berry fruits, for example, I think back in the late 1990s, that something had to give in terms of both pricing and contractual arrangements.

I recall seeing in both the Stock and Land and the Land Newspaper of New South Wales, a number of quite well regarded dairy farmers saying somewhere along the line, “This has all got to be brought out into the open and the whole pricing regime has got to be relooked at because it’s unrealistic in light of where the forecasts were then going of skim milk powder”, which of course is the core base for determining the ultimate milk price.

Why did the dairy farmers who were involved with Murray Goulburn and its associated companies allow the thing to continue as long as it did? You had Phil Scanlon, you then had Gary Helou, you had a board which had a majority of dairy farmers on it as I recall. You had a couple of externals. There were people who were saying, “This price of the \$5 plus just can’t last”.

MR ROBERTSON: The biggest problem that you have got, particularly with this particular co-op in itself - we came across this issue the other night where we would say something about one company and then another and the crowd would put on its football jumpers and start ready to box. Some people just refused to see what is coming down the track, despite the fact that it’s coming, they can’t hear it coming. So some farmers are switched on and can see what is coming on, but to a large degree a lot refuse or they are simply believing organisations like the UDP or anyone else that will tell them different, and some will just never leave the co-op.

I was one that supplied them for 20 years and basically said to myself that after 20 years the principles that this co-operative were running under were not what I would believe running to a financial advantage against the public sector. So I decided to leave and go to a public sector company. I am glad I did and got my shares out at that particular stage and that is when Gary Helou had come in and done all this stuff. At the time when they did a deal with Coles they were led to believe that they were going to get above market premiums for their product that was sold into Coles. Premiums that have been quoted now as somewhat suspect and don’t believe that they are getting such margins. Linking the products to commodities which I don’t believe they fully informed their suppliers that that is exactly what they were doing.

Now I think there is a case of farmers being hit that hard they are too frightened to speak up. There is also a bit of bullying and a culture that goes on in Murray Goulburn. If you don't agree with the team and run with the team you get exiled pretty quickly.

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MR LINDWALL: Have any of the board of directors resigned?

MR ROBERTSON: Yes, there has been three. So - and, you know, really - - -

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MR SYMONS: The rest of the board should resign too if they were - - -

MR ROBERTSON: If the farmers had any backbone they would resign - get up and hold an EGM.

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MR SYMONS: Some of the board said they didn't know what was going on. I said, "Well, if you didn't know what was going on you should resign anyway because it was your job to know."

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MR ROBERTSON: So myself and Alan and Jane and other members of our team, you know, we have been actively out there and talking to people about why aren't they conducting an EGM? Why aren't they dismissing the board and putting an administrator in and cleaning it up and getting it back to where it should be and it's just like, "Can you do it for me?" Or, you know, "We'll be right behind you but it's not our problem." You know what I mean? And - - -

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MR SYMONS: It's hard to organise and it's a similar system with Dairy Australia. It's not one supplier, one vote. So if you have got big suppliers that are producing - eight corporate farms are producing 8, 10 million litres of milk, they get 10 million votes.

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MR BAXTER: So if you take - sorry to interrupt. So if you take the Moxey Perridge farms in New South Wales and the new owners of Van Diemen's land in - Van Diemen Company in Tasmania - - -

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MR ROBERTSON: They have a substantial say.

MR SYMONS: They have a substantial say but not only that, the bigger farms are getting more money. They are not getting the same as the guy that produces 800,000 litres, they could be getting nearly double what he is getting.

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MR ROBERTSON: At the moment you have got the smaller farmers that will be on probably \$4 a kilo this year, yet guys that are milking 3000

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cows plus will probably be on \$6.50/\$7 because of the way that the co-operative structures its productivity.

5 **MR SYMONS:** So to get an EGM up and running you need 25 of the little guys who are screaming and going broke to go against one corporate farm who says, “No, we are quite happy with the way things are going. They are looking after us. We don’t want to rock the boat”. A bit like herding cats with chickens, pretty darn hard.

10 **MR LINDWALL:** Did you have any more questions?

MR BAXTER: No.

15 **MR LINDWALL:** We are just running out of time, that is all. What I would like to do, we have obviously got your contacts.

MR BAXTER: My observation is this is a far more complex issue than it looks on the face of it.

20 **MR ROBERTSON:** It’s terribly complex.

25 **MR BAXTER:** It fits into three or four categories. One being is the co-operative - I say, is a co-operative or co-operatives the best means of taking this whole thing forward. Is there another structure which would do it more effectively? Where do people, for example, Kirin and Bega Cheese and Norco fit into all this at the moment? We have obviously got your contact numbers. I would just like to have a further look at some of the details of this to get an understanding of the complexity and how you might untangle all that and find something that is relatively - - -

30 **MR ROBERTSON:** We could make a miniseries on it.

MR BAXTER: I’m sure you could.

35 **MR SYMONS:** The great thing is now that we are actually getting, after - I mean, for a lot of people it’s too late. It’s too late. And I mean, today the yarding - I was speaking to a agent yesterday, the yarding in Warrnambool where they usually get 400 head of cattle was up to 800 head today. It’s been that way for months and they are just dairy cows going in for slaughter. So for a lot of the industry it’s going to be too late. This has taken way too long. We are three months down the track and I am still getting Sarah Henderson saying, “We support you guys.” Well, we need a little bit more than support, we need a bit of action.

45 **MR LINDWALL:** Could I ask finally, China has got an insatiable

appetite for fresh milk products. Why isn't that helping exports?

5 **MR ROBERTSON:** They actually stopped. In Western Australia, for example, only a couple of months ago a bloke picked up the phone and said, "Sorry, no more milk. Done."

MR SYMONS: Then they can manipulate the market.

10 **MR ROBERTSON:** And the problem is all the factories jump on board. The amount of dairy plants getting built at the moment for baby formula because that is the flavour of the month.

MR LINDWALL: Yes, yes, yes.

15 **MR SYMONS:** And you go, "My God, what are they doing?" They are all doing baby formulas. So guess what, now the price of baby formula has crashed because everybody is doing it.

MR LINDWALL: Yes, exactly.

20 **MR BAXTER:** Well, the other problem is that the EU ended up with a massive surplus of milk and shunted it into China.

MR SYMONS: Absolutely. Yes.

25 **MR ROBERTSON:** It could have gone into Russia and, you know, on and on it goes. There is another story there again.

MR BAXTER: Yes, yes.

30 **MR SYMONS:** But having said that, some of the figures that have come out about Australia's export - we used to export 60 per cent, 70 per cent of what we produce. That is now down to 20 per cent. So the little bit of a furphy that the factories hide behind is the export for skim milk powder where we take the milk price off is really low, and 65/70 per cent of what we produce is consumed in here, in Australia.

35 **MR ROBERTSON:** That is where the supermarket starts to become more of an important issue because if they - I will give you an example quickly, and I ran this analogy with my colleagues here and I don't think they were too impressed with it, but it's one that is very true. We see dollar milk issued on the shelf for example. We have taken a 35 per cent hit so far in our milk price in the last couple of months. I have not seen dollar milk come down to 65 cents.

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MR SYMONS: We get this furphy all the time that the supermarkets are actually taking a hit on this milk and the dairy farmers are still doing okay.

5 **MR ROBERTSON:** There is no transparency between what the supermarket says and what the supermarket does. It dictates back to the processor and then the processor dictates back to us.

10 **MR SYMONS:** The supermarkets are doing very, very, very well out of dollar milk. Very, very well out of dollar milk.

15 **MR ROBERTSON:** Their issue of rise and fall contracts as well needs to be examined. That is also a big hit. His company for my company from Murray Goulburn as well.

20 **MR SYMONS:** The other thing is the brand of milk that people - thank Christ, people have gone across to branded milk and that is helping a little bit, but you have got to remember branded milk has been discounted too to try and compete with dollar milk. Branded milk should have been selling for \$2.50/\$3 a litre which we get paid 34 cents for at the moment, and it's been discounted down to \$1.60/\$1.90, trying to stay in the same ball park as dollar milk.

25 **MR BAXTER:** Perhaps saying not totally evenly. I was in buying a two litre thing of milk the other day and it was somewhere around about \$3.20.

30 **MR ROBERTSON:** Yes. You can go to a Murray Goulburn store, for example, and buy three litres of their own milk in their own store for \$3.75 and you could also find that in the same price in some Coles supermarkets but in others it can be up as high as \$5.70. We are getting constant flashes on Facebook of discrepancies in their own supermarket, depending on what area that they operate in.

MR BAXTER: Of course.

35 **MR SYMONS:** The other thing is when all this kerfuffle, and people started buying branded product, the factories were quietly saying to us, "Well, we're actually pretty happy that you are making this kerfuffle because the supermarkets are being a little bit shady at the moment". They are not getting on the phone and saying, "Right. Now, that you've cut your price to the farmers, we want to pay you less for your cheese, less for your butter."

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45 This is half the bargaining and the supermarkets have said to the factories, "If you want to supply milk to us, that's fine. There won't be a lot of profit in it but if you want your cheese, butter, yoghurt, cream, on

the shelf, you will look after us on the dollar milk". Murray Goulburn seems to think that if they are getting rid of milk, regardless of whether there is any money in it whatsoever, it's a good thing for the dairy industry, and it's not.

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DR STANLEY: Can we just clarify, is it true that you have to finalise your report by 19 August. There doesn't seem to be much time to - - -

10 **MR LINDWALL:** No, no, that was a date that we specified for submissions to be - the original date was in August because we were going to put the draft report in. It was a nine month inquiry, putting draft report out in May and then of course along came the federal election and we withheld the report until after the election. We have gone to the Treasurer. He has now extended the reporting date to 15 November.

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DR STANLEY: Thank you.

20 **MR LINDWALL:** We will go to the government on 15 November and we are inviting submissions of course - well, we said for the 18th of this month but I'm happy to take them till the end of the month or thereabouts. So please send something through and thank you very much for coming down and thanks for the long drive.

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MR ROBERTSON: Thanks for your time.

MR SYMONS: Thank you.

30 **MR BAXTER:** And hope the cows are still standing when you get back to them.

30

MR SYMONS: They'll be standing, they don't go anywhere.

35 **MR LINDWALL:** I think we will break for lunch now and maybe we can get some of the next ones back a little bit earlier but I will talk to the team about that.

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ADJOURNED

[12.43 pm]

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RESUMED

[12.48 pm]

45 **MR LINDWALL:** Well, Michael, if you could just say your name and organisation and then your statement, yes.

MR LEADER: Thank you very much. I appreciate the opportunity. My name's Michael Leader. I am regional ...(indistinct)... lead for Monsanto Australia, but I am speaking today as a member of CropLife Australia, so that's the trade association representing the plant science industry, or the tech developers in plant agriculture, basically.

I wanted to speak in support of the CropLife submission to the Productivity Commission's inquiry into regulation of Australian agriculture. Look, I think the inquiry is very timely. Just to put things in perspective, I wanted to give you some idea of the regulatory impact of bringing an agricultural technology market, you know, for a product that is actually a GMO, or considered a genetically modified organism.

It can take about 13 years to bring a product to market, and about \$136 million, and for a crop protection product, a pesticide or herbicide, you are talking about 10 years' development and about \$250 million. But of that, I would say that probably even greater than 70 per cent of that are regulatory costs, costs of getting approvals, permits, licences, all of those kind of things, which is why we think that this particular inquiry is very timely.

Look, at the outset we would like to say that we support the findings of the Commission with regards to draft finding 6.1, draft recommendation 6.1, and draft recommendation 9.1. The fundamental principle, I guess, is that there is no economic or health and safety justification for state bans on the cultivation of approved genetically modified or GM organisms.

Furthermore, I guess the requirements for mandatory product labels should be communicated only information that is relevant to the health, safety and nutrition of the products, as foreshadowed or as stated in your draft report.

We would encourage the commission to also further consider CropLife's submission in regards to the need to improve Australia's organic standards to promote co-existence with alternative production systems and to reduce duplication in regulation between the APVMA, the Australian Pesticides and Veterinary Medicines Authority, and the Office of the Gene Technology Regulator, through the removal of APVMA regulatory responsibility for pesticides when they are expressed in planta.

We further encourage the Commission to review CropLife's submission and consider further recommendations regarding the regulation of agricultural chemicals as well, with regards to the

reinstatement of the previous recognition of APVMA labels as complying with WHS regulations, improving the predictability of poisons scheduling, and I guess importantly the harmonisation of state control abuse regulations as well.

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I just wanted to let you know that our industry association will be making a further submission to the draft report along these lines, so you will be able to see that in detail, but we just thought it was important to get a statement here as well in support of that.

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MR LINDWALL: Thank you.

MR LEADER: So thank you very much.

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MR LINDWALL: Thank you.

MR BAXTER: We have been waiting for this, and I don't say this in a derogatory fashion, but - - -

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MR LINDWALL: Can I ask one question? Just to clarify something.

MR LEADER: Yes, go on.

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MR LINDWALL: Because this was - you don't have to answer it if you don't want to. This was a claim that was made - - -

MR LEADER: I could take it on notice if I want to, can't I?

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MR LINDWALL: Yes, yes, indeed. This was a claim made yesterday that I don't think can be true. It is claimed that if you have let's say two properties, property A and property B. Property A has GM crop on it of some sort, and property B doesn't. For some reason some of crop A floats across to property B, and some GM crop starts then growing on property B. The claim that was made was that Monsanto then would charge property B royalties or something like that.

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MR LEADER: Yes, that is not - that is not correct.

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MR LINDWALL: No, I didn't - - -

MR LEADER: Yes. But that's not correct.

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MR LINDWALL: Yes, well, that was the claim that was deliberately made yesterday. You can see the transcript when it gets up on our website, so it's good to get a clarification on that.

MR LEADER: Okay, and I'm happy to provide you with - you know, I'm speaking on behalf of CropLife here - - -

5 **MR LINDWALL:** Yes, yes.

MR LEADER: - - - but you've got my details and we're happy to provide you with something, you know, to clarify what our licensing arrangements are - - -

10 **MR LINDWALL:** Yes.

MR LEADER: - - - with the trait that we have on the market right now in canola.

15 **MR BAXTER:** Look, I think that would be extremely helpful. You've got mine and I think Paul's - - -

20 **MR LEADER:** I don't think I have your - - -

MR BAXTER: Well, we'll give them - we'll make sure you get them.

MR LEADER: No, that would be good.

25 **MR BAXTER:** The amount of mythology that is floating around on this is legion.

MR LEADER: Yes, that's why we thought it was important that you actually see a face to the name, and can ask questions that you need.

30 **MR LINDWALL:** I could ask other questions, but I won't today.

MR LEADER: I know.

35 **MR LINDWALL:** So thank you very much, Michael, and we'll now adjourn for lunch.

MR LEADER: Thank you.

40 **ADJOURNED** [12.53 pm]

45 **RESUMED** [2.15 pm]

MR LINDWALL: Shall we get started, do you think, or what? Do you need more time?

5 **MR PHELPS:** Well, if you're ready, I'm ready.

MR LINDWALL: And Bob, what normally happens is that if you just say your name and the organisation and then tell us a bit about yourself - - -

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MR PHELPS: Yes, sure.

MR LINDWALL: - - - and then make a short presentation, then we'll ask you some questions if that's all right.

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MR PHELPS: Very good, thank you.

MR LINDWALL: You can start at your leisure.

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MR PHELPS: Okay. I'm Bob Phelps. I'm the Director of Gene Ethics, which is a community group concerned about genetic manipulation technologies, chemicals and related issues, particularly in food and crops, founded in 1988 and still going strong.

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So thank you for the draft which we are discussing today. Just general concerns, for a start, that there seems to be too little attention to environmental issues, particularly climate change, which is going to be the overarching issue for farmers and the whole community for a long time to come, and we need some action on it, and for that reason I think our laws and regulations need to be strengthened, not dismantled or weakened.

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35 There is also some resort to calling things "externalities", and I'm afraid that the environment often gets put in that basket. When we can't put a cost on it, the Commission appears to think that it can simply dismiss a concern or an area of public policy like climate change by saying, well, you know, that is external to our concerns and considerations here.

40 So I think overall that I find the evidence of the report rather weak. It needs quite a bit more work from getting the evidence together, and I think too that the cost of the deregulatory options which are proposed never seems to come into the picture.

45 You know, if you change the law and you deregulate or dismantle what we have, then there is certainly costs associated with that as well,

and there seems to be a blind spot in the draft on that, because we need I think to improve regulations on laws on all these matters as I will go on to explain in a moment.

5 I think that the Australian public interest needs to come first, and that that needs to be the thing that we look to always. So it is disappointing that the draft appears to pay much more attention to particularly CropLife Australia and AusBiotech. CropLife is part of a global network which represents a handful of the cartel of agrichemical and seed companies
10 worldwide, and I think much more credence and credibility needs to be given to the public input to this draft.

As we discussed last time, you know, soon the global cartel will number only four companies owning most of the seed and agrichemicals in the commercial-industrial agriculture space worldwide, and that is not
15 in the public interest.

We also have in Australia, of course, a supermarket duopoly, which is busy, shall I say, screwing our farmers and shoppers, and that can't be in
20 the public interest either, and yet it's not really addressed or mentioned in the draft. So when we are talking deregulation we need to think constantly about the concentration of ownership and control in Australia and worldwide if we are to really serve the public interest and to advance smaller businesses, smaller farmers and shoppers.

25 I note for instance from ABS figures in 2011, which are the most recent ones, that 40 per cent of our farmers have agricultural operations worth less than \$50,000 a year, and 85 per cent are under \$500,000, so that only leaves 15 per cent in the \$500,000 per annum plus bracket, with
30 a mere - looks like about 4 or 5 per cent in the \$1 million plus.

So we need to ask in this discussion who is burdened by these regulations and laws? Is there actually a burden? And if it's removed, who is it going to benefit? The few big timers, or are the mass of small
35 farming operations going to get a share of this cake as well that you think is going to come from deregulation?

So I'd like to talk first about the new breeding technologies, because that's the future. The genetic manipulation technologies that have been
40 used so far have produced five broad acre crops with two traits and they are not going to be capable of producing much else because they only manipulate single genes, where as the new breeding technologies, CRISPR, ZFN and the rest of them, are on the cusp of producing an enormous number of products, and we think that it's extremely important
45 to have these things regulated since we don't know yet what these new

technologies are going to throw up.

5 In some cases, synthetic biology will actually create organisms that have never existed before. They will be designed and created from scratch, and will be avoiding five billion years of evolution which has produced the natural world today, so how they'll behave if they're put out there, nobody knows, and it's absolutely essential that they be stringently regulated.

10 So that is why we are asking the Commission to recommend an immediate public review of the Gene Technology Act and the Gene Technology Regulations, so that all gene editing techniques and their products can be included under the existing definitions of genetic manipulation in the law and that they can be viewed in a precautionary way. We want the precautionary principle applied to these things.

20 The other present reality is that a large band of young, amateur risk-takers and entrepreneurs think they can do with biology what was done with computer science and electronics, so they have already started to DIY biohacking in kitchens and laundries around the world, and I just remind you that although we invented computer codes you still get bugs in your system and people have a pastime of creating viruses which will create havoc in the system for fun or for gain.

25 And we can't have a band of young keen biohackers doing the same thing with the living world, so we need strong regulation to ensure that this comes under control. At the moment our correspondence with the Office of the Gene Technology Regulator is pretty disappointing in that they are saying they don't know if these things come under their remit.

30 Science Week, which is this week, for instance, has got three things on in Sydney tomorrow and the next day, one for school children tomorrow with a visiting biohacker from the USA, Ellen Jorgenson, and two evening events as well, to promote these ideas.

35 Do-it-yourself biohacking kits are now available on the internet for as little as \$130, and the OGTR says unless they contain anything genetically manipulated, if they're just a kit that's got the instructions and the gear to do it, then there's no prohibition on this stuff being imported, and Biosecurity Australia appears to take a similar view.

40 This should be of great concern. So we're asking the Commission to also urgently counsel government for strong regulation on biohacking activities and the availability of do-it-yourself biohacking kits, because
45 there are already interested groups in Australia starting to pursue this work

quite unregulated.

5 The Office of the Gene Technology Regulator's current rules, of course, say you can't do this kind of work without a contained facility, which is certified by them, that you have to be trained, that you have to be under expert supervision, et cetera, but really what we have at the moment is an open invitation for anybody and everybody who's interested to get their kit and have a go with any living cell that they might choose to use to create new organisms.

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So I think this is an area in which the Commission should recommend a strengthening and streamlining of the law, not dismantling or weakening it. It's a present reality. We're on the cusp. These things were only invented just five years ago at the most, and we're already seeing commercial products.

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I also want to remind you, because there seems to be some misunderstanding, that new breeding technologies do not just relate to crop plants. It could be that there'll be animals, microorganisms, fungi, yeasts, and a whole raft of other things that are relevant. So containing the discussion in the draft as it is to just what's been done already is - lacks foresight and vision about where we are at at the moment and what's going to come, and why we need to be innovative in our approach to creating new laws and regulations, not backsliding or weakening.

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I just - I know I'm running a little short of time and you might be getting restive, but I just wanted to mention your findings and recommendations, the ones that I'm going to attend to. Draft finding 6.1 - the draft challenges the claim without supporting evidence that there are no health and safety justifications for banning GMO cultivation.

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Well, you're saying there is justification for it, we're saying that in fact there are health and safety issues. The thing is that the regulators don't look at the evidence. They don't look at all the evidence. What FSANZ, for instance, does is - requires applicants to give it a chemical analysis of the end product, of the food product, which is the subject of the application, a GM event as it's called, and they then compare certain parameters in that analysis with a conventional counterpart, and they apply the concept "substantial equivalence" to reach the conclusion that there is no difference, the conventional food is safe therefore the GM food must also be safe.

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There are no benchmarks or standards about the data, so each case is treated case by case on an ad hoc approach, and they claim that the measurements they make are within the normal range of values. They are

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never the same. This is why they call it substantial equivalence, not equivalence. So they are different, but they claim not substantially different.

5 They also don't take into account - as you know, you've mentioned in the draft that FSANZ rejects certain animal studies that tend to show that some genetically manipulated crops, food from genetically manipulated crops, harms experimental animals.

10 Now, those experiments generally are much longer than the company's experiments, which last 90 days. The ones in contention have been done for two years, and some of them are intergenerational as well, and do find that there are health and safety impacts on experimental animals.

15 It is true that we haven't seen any clear evidence of harm in human beings. However, we know that the time for induction of cancers, for instance, is 20 years, and our food is a very complicated thing, so pinning it down to a particular thing, except in an experimental situation, is not very practical.

20 Draft finding 6.1, you say there is no economic justification for banning the cultivation of GM organisms. Well, again, this comes to the question of these new organisms, not only crop plants, but potentially animals and a whole raft of other things that are coming down the pipeline right now.

25 There is a GM contamination register which is referenced in the document which notes 396 contamination incidents around the world from 1997 to 2013 with GM materials. I suppose one of the most notable ones is the Starlink case, 1998. Starlink was approved in the USA for animal feed, not for human consumption. It was found extensively in the American and other - Japan and other food supplies in 1999, and the recall cost \$1 billion and put Aventis out of business.

30 So it is not true that there are no economic impacts from this. We had a case in Victoria early on, I can't quite recall exactly when, a container of canola rejected by a Japanese buyer for being GM contaminated. So draft finding 6.1 we dispute.

35 Then as to state and territory governments giving up their powers to declare GM zones, either for specific crops or generally on marketing grounds, this is an important check and balance against the centralisation of all the power in the hands of the commonwealth, and this power sharing is essential because the commonwealth has no capacity - the

OGTR and FSANZ for instance have no capacity to evaluate whether the introduction of a new GM crop would have an impact on markets.

5 Our key trading partners have zero tolerance for any GM, particularly Europe, and I know that you want to argue that, well, co-existence can happen, because Cooperative Bulk Handlers in Western Australia does it, but this again is a question of scale, and also a question of approach.

10 If there's any question of anything being contaminated it's immediately downgraded to GM in order to preserve zero tolerance of GM in that GM-free export, particularly to Europe, a market that we could easily lose. It is an extremely valuable market worth millions of dollars per annum, and I think one slip-up and it could easily be lost, particularly with Canada with 100 per cent GM, virtually, standing in the wings waiting to inject itself into any market that we might have a question about. They lost that market to us in 2003, and they would just love to get it back if they could.

20 And we oppose the removal - your idea of removing GM labelling. This will disadvantage shoppers in favour of the GM and retail giants that I have already talked about. Labels ensure that all parties to food purchases have access to the same information, so it's a level playing field. I also remind you that Labelling Logic report recommended that labelling on novel foods be maintained for 30 years.

25 So the first GM foods came in in 1996, so we're not even up to 20 years yet. I also want to remind you about the exemptions. There is, practically speaking, no actual GM labelling in Australia. Vegetable oils, starches and sugars are all exempt. So canola oil is exempt from any labelling, for instance, even though it does contain DNA and protein.

30 High fructose corn syrup imported from the USA, no labelling. The products of animals, meat, milk and eggs from animals fed GM, and there is half a million tonnes of GM soy and corn coming in for animal feed each year, all exempt from labelling, and we believe that the 1 per cent threshold of allowable contamination, adventitious contamination, is being used in some cases to allow routine presence of GM in unlabelled products, particularly after some testing was done in infant formula.

40 And finally, in relation to chemicals, the chemical regulation regime has actually gone backwards dramatically, and this needs to be acknowledged, in the last couple of years. When the Abbott Government got elected in 2013 - no, 2014, was it? The program, the new program, to review and re-register agricultural chemicals which was due to come in on 45 1 July 2014 was cancelled.

5 So we are still in a position of having chemicals that were approved up to 50 years ago on the basis of very poor evidence and not contemporary science which are out there being used in the marketplace, and your draft now proposes that off-label use of all of these chemicals, thousands of them, many of them poorly assessed and regulated, is going to be facilitated and allowed.

10 As to the question of accepting the evidence of other regulators, pre-digested evidence is never up to snuff, really, compared with the original data. So to accept the decisions of other regulators is really very, very second best.

15 **MR LINDWALL:** Like the US FDA? Go on, please.

20 **MR PHELPS:** And particularly in relation to the USA system versus Europe, the USA much weaker, much more deregulated than the European precautionary system where there is more forces at work and views in the - all the countries of the EU, so we are definitely in favour, if you are going to change the regulations, of going with the European model, not the US.

MR LINDWALL: Okay.

25 **MR PHELPS:** Thank you.

30 **MR LINDWALL:** Thank you, Bob. I'm not sure that I agree with you on the difference between the United States and Europe. I lived in both, and food safety standards are much stricter in the United States than in Europe. You can walk around to a Paris market and you'll see they're not necessarily kept in a particularly safe form. But that's slightly beside the point.

35 I think I wanted to address first a couple of points. You mentioned externalities. When we talk about externalities, we're talking about the incentives that you as an individual or an organisation might have to do something or not to do something in relation to the activities that you have.

40 So if I'm a farmer and I've got a property here, property A, say, and I can have an effect on the neighbouring properties, which could be both positive or it could be negative, depending on the type of thing that I'm doing. If I'm polluting then that is a negative externality that I am placing upon the other properties, and I may not be taking that full effect in my own decision making, and that's what we talk about when we talk about
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externalities, which I thought was - you might have misunderstood that.
And so we - - -

5 **MR PHELPS:** And you also call them spin-offs, so I suppose - - -

MR LINDWALL: Well, that's a positive externality.

MR PHELPS: Is it?

10 **MR LINDWALL:** And normally a positive externality is an innovation where the person who makes the innovation may not necessarily get the full benefit for it, and therefore that's an argument sometimes used for subsidising.

15 Also if I'm placing a negative externality on you it's something where I might not take the full cost, and therefore I might over-pollute or something and this may be sometimes a justification for a charge or something.

20 **MR PHELPS:** Because you're not bearing the cost yourself.

MR LINDWALL: Full costs, yes.

MR PHELPS: Yes.

25 **MR LINDWALL:** So as for - - -

MR PHELPS: So that's an argument for more regulation, not less, isn't it?

30 **MR LINDWALL:** No, no, no, it's never an argument for more regulation. It's for the right regulation - - -

MR PHELPS: Better regulation.

35 **MR LINDWALL:** - - - and better regulation, and it always - just because there's an externality in existence is not sufficient by itself to argue for regulation. You have to demonstrate on a whole-of-economy basis that the benefits of that regulation outweigh the costs of the regulation. All regulations impose costs, and some regulations have benefits. You have to really assess both. And that is not just economic costs, it's environmental and social too.

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45 Now, on the science, I mean, yesterday we had Professor Mike Jones, professor of agricultural biotechnology at Murdoch University, testifying,

5 and he said that he thought it was a scientific paradox that the more we know about a gene's traits the more we regulate it, and he said that in fact, contrary to what you just said where you're downgrading to GM, GM is the safest of all food, followed by conventional food, followed by organic food. That's what he testified yesterday.

MR BAXTER: Yes, that was the - - -

10 **MR LINDWALL:** And then - - -

MR PHELPS: Mike Jones has a particular axe to grind. I know Mike - - -

15 **MR LINDWALL:** Well, but he's a qualified bioscientist. Then we've got letters here from 111 Nobel Laureates - - -

MR PHELPS: You also heard from Julie Newman, I believe.

20 **MR LINDWALL:** Yes, we did.

MR PHELPS: Good. Sorry to interrupt you.

25 **MR LINDWALL:** And in fact, she said - Julie Newman said that GM foods exported have a 10 per cent price premium over non-GM.

MR PHELPS: Yes.

30 **MR LINDWALL:** And which seemed to me that that shows that they can be successfully co-existing. Because if one was contaminating the other, then you wouldn't be able to get a price premium, but since you do have a price premium, that's surely evidence that they can successfully co-exist.

35 **MR PHELPS:** But to say that a small industry like South Australia or Tasmania should have their right to remain GM free removed when by far the biggest canola industry in Australia is in WA. It's run by a cooperative of farmers who agree with each other about how the thing's going to be done, and they have zero tolerance. So anything that's suspect is downgraded.

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45 To say that Tasmania or South Australia could do the same thing I think is quite wrong, and evidence of that is that New South Wales and Victoria haven't been able to do it, because at the moment we have Victoria with 13 per cent of its canola GM and New South Wales with 11 per cent, and 30 per cent in WA. Even there, it's not the majority, and the

majority of our farmers, the vast majority, are still GM free, and reaping the benefits of being so.

5 **MR LINDWALL:** The Office of Gene Technology Regulator, which you mentioned, Bob, we spoke to them, and they're going to be appearing at our hearings on Monday in Canberra, and they said that the assessment of safety has been very stringent. It's based upon the precautionary principle, as you say it should be. They say that it's supported by all of the credible science around the world. I mean, are you just disputing
10 that, because I read that there's - - -

MR PHELPS: I'd like to have the precautionary in their law. If it was in their act - - -

15 **MR LINDWALL:** It is in their act.

MR PHELPS: A very pale excuse.

20 **MR LINDWALL:** Well, this goes back to your point about more regulation. Just because there are people out there with do-it-yourself biotechnology, imposing more regulation doesn't necessarily stop that, does it?

25 **MR PHELPS:** No, we need to amend the current laws and regulations.

MR LINDWALL: I mean, we can have laws for all sorts of things, but it doesn't stop activities directly. Surely having things in - let me put it another way. When we - - -

30 **MR PHELPS:** I think we need the Office of Gene Technology Regulator to have more powers and to have defined those organisms.

35 **MR LINDWALL:** But you have just - you have said that what they do is not scientifically valid. You are saying that they are letting through things that are unsafe, and yet the OGTR has said that everything they have approved is safe.

MR PHELPS: Sorry, did I say that?

40 **MR LINDWALL:** No, I thought you said - maybe I misunderstood you. So do you - - -

MR PHELPS: Sorry, that I said - - -

45 **MR LINDWALL:** Do you disagree with the OGTR that says that its

assessment of gene technology that it is safe for human consumption and animals as well is wrong? And yet you want to increase their powers?

5 **MR PHELPS:** I am saying that they should take all the evidence into account - - -

MR LINDWALL: Well, they say they do.

10 **MR PHELPS:** - - - and that they should not dismiss, as FSANZ does on its own website, the evidence of harm in experimental animals, which OGTR also dismisses. Take all the evidence into account, that's what I'm asking.

15 **MR LINDWALL:** But you just said to give OGTR more power. Well - - -

20 **MR PHELPS:** Concerning biohacking, certainly. I would like to see the new breeding technologies defined as being GM and included in the Gene Technology Act so that they can be captured as well. These things didn't exist when the act was written in 2001, and we all engaged in a huge national discussion about it. We didn't think the regulation was perfect, but it was okay. It was much better than its predecessor, and it has worked reasonably well.

25 However, it is science-based, not scientific, and I think we had this discussion last time. They are very clear, and you can ask them, that their processes are science-based.

30 **MR LINDWALL:** Yes, based on looking at the analysis of apparently 17,600 scientific papers in peer reviewed journals around the world which all, apparently bar none, say that it is safe.

MR PHELPS: This is what Mike Jones says, is it?

35 **MR LINDWALL:** No, this is actually a paper that was published by 1,400 scientists from plant science experts around the world who published and they supported - - -

40 **MR PHELPS:** That's about plants, is it, not about micro-organisms or trees or animals? I mean, you know - - -

MR LINDWALL: Well, this is plants, obviously, but - - -

45 **MR PHELPS:** Yes. I think we need to take a more universal view than that. As I tried to emphasise to you before, there are already trees, fish,

microorganisms, a whole - anything that you can imagine, someone is trying to genetically engineer it, and now they have got better tools to do it, and those tools are not regulated, and in our view they should be.

5 **MR LINDWALL:** Aren't you just trying to close the gate - - -

MR PHELPS: We're asking you to go to bat for those things to be regulated.

10 **MR LINDWALL:** But what's Australia going to do about that? If you're right, and the cost of GM is reducing, which it probably is, and there's scientific technology advances, then you're closing the gate after the horse has bolted. And it's already going to happen.

15 **MR PHELPS:** Not at all.

MR LINDWALL: And Australia could do what it pleases. The rest of the world will lead ahead on this, China, the United States. What are we going to do then?

20 **MR PHELPS:** We're going to regulate like they will. Europe is having this debate at the moment. China is not prepared to accept any unapproved GM organisms, that is why it has rejected US hay, corn - - -

25 **MR LINDWALL:** China has a lot of GM, actually.

MR PHELPS: Yes, but unapproved and unassessed events, they do not, and they have recently rejected - and so has Korea, have been rejecting American product, alfalfa hay, corn, et cetera.

30 **MR LINDWALL:** That's called protectionism.

MR PHELPS: No, no, not at all. They're unapproved.

35 **MR LINDWALL:** Yes, they're going to protect their own industry, that's what that is.

40 **MR PHELPS:** Under the biosafety protocol, the Cartagena Biosafety Protocol, to which we are not a party, but 170 other countries are, countries agree to set up systems like ours for assessing new genetically manipulated organisms before they accept them into their country, and that's what China is doing, operating under the Cartagena Protocol, and not, as you suggest, being closeted - what was the word you used? Isolationist?

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MR LINDWALL: Protectionist. Well - - -

MR PHELPS: Protectionist. Protectionist. And not protectionist, not at all.

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MR LINDWALL: I'm not sure I'd agree with that, but - - -

MR PHELPS: They're going ahead. They are going ahead with their own research and the deployment of their varieties, after they have assessed them, but they will not accept unapproved varieties from overseas.

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MR LINDWALL: Well, what if you were wrong, Bob? What if GM technology is not only of benefit to the environment, but also vital to, as a lot of scientists have said in literature I've read, vital to feeding the world's population, and that without it there will be mass starvation. Do you deny that? I mean - - -

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MR PHELPS: I do, definitely. But today - - -

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MR LINDWALL: But what if you are - again, what if you are wrong? You're saying that the whole risk should be in one direction, and that we should ignore risks in the other direction which might be that greater harm.

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MR PHELPS: The UN Special Rapporteur on the Right to Food is very, very clear that the world produces double the amount of food now needed by the human population in the world, but 30 per cent of it is wasted and it is misallocated because it is traded internationally for profit.

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It doesn't go necessarily where it's needed. So in 2009 we had numerous societies having virtual revolutions because of the price of food. People simply couldn't afford to feed their families. This is not what we need. We need market mechanisms and we need food production systems that feed people.

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MR LINDWALL: But the world's population is less - I'm actually asking the questions - - -

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MR BAXTER: You're missing one ingredient, I think, Bob, is that if you take a country like India, for example - - -

MR PHELPS: Yes.

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MR BAXTER: - - - where I have had considerable experience in

5 working in both the provision of facilities related to agriculture and agricultural projects, is that a major problem is not the international traders, it's the incompetence of the transport and storage system, and the fact that somewhere around about 30 to 40 per cent of grains, pulses, vegetables and crops which are harvested within India - - -

MR PHELPS: Yes.

10 **MR BAXTER:** - - - rot in storages, in inadequate storage, throughout the country.

MR PHELPS: Yes.

15 **MR BAXTER:** So it is - even if you imported a lot of the stuff into a country like India, you are still going to lose it because the transport systems and the distribution systems are totally inadequate.

20 **MR PHELPS:** So that is a market issue, is it not? That can be fixed by - - -

MR BAXTER: Well, it is more than a market issue, it is governments that control the transport systems, it is organisations within the country that control the storages, normally run in many cases by either corrupt or clique-type - I suppose you might call them co-ops, for want of a better name, but it is only at best a partial market solution.

MR PHELPS: Yes. Government policy needs to be good too, and that's why we need good government policy in Australia as well.

30 **MR BAXTER:** Yes, but that's an easy way to avoid "how do you get government policy in a country like India". And the Chinese, for example, as I understand it, are developing their own GM technology, and one of - I mean, Paul talked about protectionism.

35 It is a degree of protectionism, because the Chinese are proceeding with no regard, in many respects, to anybody, or what anybody is doing internationally, apart from probably picking their brains.

40 **MR PHELPS:** I think you are being unfair, to be honest. I think the Chinese are proceeding in a very sensible way. They have got good science and scientists, they want good evidence about the safety of their food supply, and their citizens demand it. After the melamine scandal when thousands of infants were killed because milk was contaminated - - -

45 **MR BAXTER:** But it wasn't genetically modified milk.

MR PHELPS: - - - they are absolutely - I beg your pardon?

5 **MR BAXTER:** It wasn't genetically modified milk.

MR PHELPS: No, no, it had melamine in it, which is a chemical, an industrial chemical put in there to bulk up milk, and it has - - -

10 **MR LINDWALL:** No, I dispute the thing that - - -

MR PHELPS: - - - made thousands of children disabled and dead, you know. I mean - - -

15 **MR LINDWALL:** You're saying that Chinese scientific standards and food safety standards are higher than Australia?

MR PHELPS: I didn't say that.

20 **MR LINDWALL:** Well, that's what I - - -

MR PHELPS: I said they are high, and their people are demanding that they be very high. That's why we've got Australians starting to fly - - -

25 **MR LINDWALL:** Of course as people get richer they want higher standards.

MR PHELPS: - - - loads every day, I think near Brisbane there's a new airport, a private entrepreneur's going to fly twice a day a load of milk into Asia. This is the result - - -

30 **MR LINDWALL:** The fresh milk, yes.

MR PHELPS: Fresh milk.

35 **MR LINDWALL:** Well, that's a typical - - -

MR PHELPS: A response to contaminated milk.

40 **MR LINDWALL:** - - - response to - no, it's a typical response to growing wealth, actually.

MR PHELPS: Yes, it's that as well.

45 **MR LINDWALL:** It's Maslow's Triangle. As people have satisfied their basic needs, they move up the triangle, and I suspect that's what

you'll find.

MR BAXTER: I mean, they've been air freighting milk, fresh milk and oysters, into Singapore for at least the last 15 years.

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MR PHELPS: Well, that's - - -

MR BAXTER: And it's a market operation that has proved to be perfectly satisfactory.

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MR PHELPS: That's great, but I think the Productivity Commission ought to also come back to the question how are we going to feed Australians? Because the figures are pretty bleak about the situation of food supply in Australia as well. You know, we've got - - -

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MR LINDWALL: Well, we're a net exporter of food.

MR BAXTER: I would disagree very strongly with you. I don't think the figures are bleak.

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MR PHELPS: Food Bank is the fastest growing NGO in Australia, and demand for its products is huge. I've got the figures here somewhere, if I can just put my hand on them. But, you know, hundreds of thousands of people are now reliant on charity in Australia to be fed. So that's - - -

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MR BAXTER: That's not because we can't produce the food.

MR PHELPS: No, we're producing export commodities to send overseas like you were just saying, rather than feeding Australians.

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MR BAXTER: We have spent the last probably, what, three months, four months, going round the various agricultural producing areas of Australia, and with due respect, Bob, what you're saying is a nonsense. There is plenty of food that's available within Australia. We have the advantage of having opened our borders so that at times when things like strawberries, peaches, grapes would not be available to the Australian consumer they are now available 24 hours a day, seven days a week, because we fill in the gaps in our cycle of production with food that we import from New Zealand and the United States and Canada, and in some cases from South Africa.

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MR LINDWALL: And it's not necessarily a supermarket duopoly. Woolworths, Coles, IGA, Aldi, Costco, and there are others. I don't know why you keep - everyone says there's a duopoly.

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MR PHELPS: Well, I think the duopoly's treated farmers very badly, about milk for instance.

5 **MR LINDWALL:** Well, we've certainly spoken to the dairy farmers, and there's a number of issues for that that we need to address.

10 **MR BAXTER:** Yes, well, even that's in the initial stages when the contracts were signed between Woolworths and between Coles and a number of the dairy suppliers, the prices that were paid were full market prices and gave, certainly in the case of Murray Goulburn, the guaranteed supply - or a guaranteed output of milk that they were getting from their farmers at a fixed and known price, and the problem with Murray Goulburn has turned out to be it had an incompetent board and incompetent management.

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Now, that has got nothing to do with food security. It has got a great deal to do with management competence and failure of the board to, you know, accept its responsibilities.

20 **MR PHELPS:** Well, I did find the figures because they were here right under my nose all the time. This is from the Food Bank website. "Are there really hungry people in Australia? Yes, there are, but hunger is largely a hidden social problem and many victims suffer in silence. Each year two million people rely on food relief. Around half of them are children. 105,000 are currently homeless. 2.2 live in poverty. 10.9 per cent of children live in poverty. One in four pensioners live in or close to poverty. These are the Food Bank's customers."

30 So I think that as public servants, the Commission should be really much more sharply aware in its draft, and I'm trying to relate it back to the draft, about the need to secure food for Australians first, and think about export commodities, whether they are GM or conventional, second.

35 **MR LINDWALL:** Every example throughout human history that I have studied of borders - of countries that wish to close their borders and prevent exports and supply in autarky have proven to be abject failures. They have led to massive famine on a scale that what you have just mentioned is nothing.

40 **MR PHELPS:** No, it is a matter of emphasis.

MR LINDWALL: What has happened in China during the Cultural Revolution - - -

45 **MR PHELPS:** With respect, it's a matter of emphasis. I think you

should emphasise more that our government is there to serve Australians first, okay?

MR LINDWALL: Yes, it is. Well, the government - - -

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MR PHELPS: And we're not saying anything about export. Export as much as you like, okay? GM free.

MR BAXTER: With due respect, there's two very different issues. One is the fact that there are groups of people in Australia who are not adequately fed, are not adequately housed, whose health is not adequately treated, and that is an issue for (a) us as a community of individuals, (b) for governments at local, state and commonwealth in ensuring that those services are provided, and, if required, the funding should be made available to purchase the food which is readily available to make sure that those - that those persons' social needs are met. Not a food production problem.

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MR PHELPS: Well, in the context of this discussion, then, maybe more emphasis needs to be given to that 85 per cent of our farmers who at least in 2011, and I guess it's gone backwards since then, were - had revenues of less than half a million dollars a year. That should be one of the goals of this draft, I think.

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MR BAXTER: Well, can I add to that, what's missing from that figure is what has been the actual capital value of their property at that time, number one; number two, the very generous taxation advantages that accrue to all agricultural farming, and if you in fact put back into the figures the value of the tax concessions, I think you might get a far different result.

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MR LINDWALL: But it's true, though, there's a bifurcation of the - - -

MR PHELPS: We'd probably see that 40 per cent go out of business, wouldn't we?

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MR BAXTER: No.

MR LINDWALL: But there's a bifurcation of the industry. There are small - or like my own family, my parents own a small farm, and they always wanted to have a small farm. And of course, there are some economies of scale, so the expected growth at the lower end. I'm not sure that - - -

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MR PHELPS: Did your mum have to go out to town in order to support

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the farming operation?

5 **MR LINDWALL:** That's the experience - well, actually my mother actually was a home maker, but no, that's the experience of many farmers, that they have other work.

MR PHELPS: Most in that category have got to.

10 **MR BAXTER:** But it's also - it's also - you're being very selective. It's also a characteristic of many small businesses in cities, where they might run a general store, the husband runs the store or the wife runs the store and the husband goes out and works for the local council or somebody else, or vice versa, or they take in home duties.

15 I mean, in every strata within our society there are low income groups who need satisfactory looking after, either by charitable groups or governments or a combination of the two.

20 **MR PHELPS:** Well, your draft could benefit by a bit more of that discussion, I think.

MR LINDWALL: Well, it is a report about agricultural regulation, not about social policy.

25 **MR PHELPS:** Yes.

30 **MR LINDWALL:** The PC has put out many reports about social policy in the past. We did one on disability and aged care and so forth, so we don't try and repeat the - I mean, it has limited terms of reference here, so if you're talking about social policy, it's not within the terms of reference.

35 **MR PHELPS:** I don't see the distinction between the two, to be honest. I mean, this is social policy. If the government takes your recommendations and implements them, then that's social policy as far as I'm concerned, and it does have both seen and unseen consequences, costs and benefits.

40 **MR LINDWALL:** Yes. Well, as you know - you may not be aware, the Productivity Commission Act, as its primary objective, is to look - that our reports have to focus themselves on the wellbeing of the Australian people as a whole, and that's our primary goal.

45 **MR PHELPS:** Well, I hope this draft will take note of that objective, and give it a bit more air time.

MR LINDWALL: Okay, Bob, thank you very much, but I think we need to move on to Fran, but I appreciate you coming today.

5 **MR PHELPS:** It was a pleasure to be here, thank you.

MR BAXTER: Thank you.

10 **MR LINDWALL:** Good afternoon, Fran. If you - and Fran, the usual approach is if you could just say your name and organisation that you're representing, or yourself if you're not, and then a brief opening statement, and then we can have questions and answers.

MS MURRELL: Great.

15 **MR LINDWALL:** And we have to finish about - it's currently 3 o'clock, so you've got about half an hour, if that's all right?

20 **MS MURRELL:** Yes. That should be plenty. Okay. I might - if possible, I might grab - - -

MR LINDWALL: That's yours.

25 **MS MURRELL:** I'm just going to sort out my various evidence that I've brought for you. So - okay, good afternoon. My name is - is that - can you hear me?

MR LINDWALL: No, it's not amplified, it's just for the record.

30 **MS MURRELL:** That's okay. Right, okay.

MR LINDWALL: You know a transcript is being made and it will be put on our website.

35 **MS MURRELL:** Fine. My name's Fran Murrell, and I'm from MADGE, a group that represents anyone who eats. And so I'd like to bring the eating end into this inquiry into agriculture, because agriculture ends up on plates as a meal. Most of the food is bought by women. Many of those women are mothers. So I think it is very important to understand where all this ends up.

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45 Now, anyone's concern, but especially a mother's, is for the health and wellbeing of the people eating their food, especially children. Mothers at the moment are coping with increasing rates of food allergies and intolerance, auto-immune disease, gut problems, behaviour problems, neurological illnesses such as autism, and also rising infertility.

5 Now, what we have is a body of Food Standards Australia together with the OGTR who have allowed a whole lot of chemicals and processes and seeds that have never existed in the human diet before. And this is just a little summary. So genetic modification, pesticides, irradiation, endocrine disruptors such as BP8, and plastic packaging, Symbio, all sorts of additives and processing aids and other chemicals.

10 Mothers and others are sceptical that anyone has done the research showing how this multitude of things interact in anyone, let alone their babies, grumpy toddlers or moody teenagers. People are increasingly finding that by eating a low or no processed diet they are recovering from illnesses, sometimes completely, sometimes just an improvement in symptoms.

15 People are also extremely concerned about the lack of labelling, and we are contacted by people who say things like, "I have to eat organic and biodynamic food, otherwise what happened to me last night happened. I had some cream, and I have come up - my lymph nodes have come up all over my body. The last time this happened I went to the doctor and I was checked for cancer. I know it's not that. I know it is what I have eaten."

20 We also know about people who, when the formulations in oils are changed and the labels are not required to be changed, they can sense it. They know when the product is different because they have a physical reaction to it. I know this is a tiny proportion of the population, but I think that, (1), you know, nobody should have to worry about food and the processing of this in this way, and (2), what's happening to the people who don't realise that they're - these are acute symptoms, but what happens to people with chronic symptoms and they don't know that they are linked to this.

25 Last year MADGE organised a tour of a US paediatrician of 30 years' experience, a UK molecular biologist who deals with human health, and a US mother to come out and talk about the clinical, the scientific and the anecdotal evidence of what is going on in our food supply, because we are not - you are not having this discussion in an environment where everyone is happy with their food. We are having it in a place when people are becoming increasingly concerned about their food.

30 So if you go on our website, you can see some of the scientific effects. Now, this stuff is very, very new science. They are finding effects in pesticides and endocrine disruptors - and most pesticides are endocrine disruptors - at low parts per trillion, and the time of exposure is vital.

5 So you can completely transform a foetus in the womb in one exposure. And that exposure might be inherited. So what we are talking about is incredibly complex stuff, and the science is only just coming out that we are starting to look at.

10 Okay, I am going to now talk around pesticides. Pesticides were mainly introduced post-Second World War. We are still finding new stuff about it. It is the most widely studied thing that I'm talking about, but I'm not saying pesticides are the only thing that's the problem. I will go into GM later in the questions if you are interested, but I am focusing on pesticides as a sort of trial thing.

15 Most GM crops, they either produce a pesticide within the crop, or they are designed to be sprayed with a pesticide, and GM crops have increased pesticide use, as now the new GM crops are sprayed with Dicamba, even though it's illegal, 2, 4-D, and glyphosate.

20 And so that is why I am focusing on pesticides. So, okay, with these wonderful new products that have been allowed over the last 60 years into agriculture, is there any evidence for harm? Right, this is a report with plenty of science in it from the Pesticide Action Network in America. There is nothing similar in Australia. We have no idea what is going on here. It looks at new meta-analyses of studies pointing to higher risks among children in rural areas, especially two cancers arising, that is brain cancer and leukaemia, and there's also links to increased neurological problems, so that is things like autism, ADHD, learning difficulties, behavioural difficulties.

30 I want to say once again we have no idea what is going on in Australia, because we don't have similar studies, but we do know that Australia allows chemicals like Endosulfan that are banned in America. We also have the Journal of Clinical Endocrinology and Metabolism has published a series of studies about the effects of endocrine disruption, and as I said before, endocrine disruptors are often pesticides. They are not - you know, chemicals, basically. They cost the EU 150 billion Euros a year in actual health care costs and lost earning potential.

40 So they are associated with lost IQ, intellectual disabilities, infertility, male reproductive dysfunction, obesity, diabetes, cardiovascular disorders, ADHD, and autism spectral disorders. Okay, so I'm saying is there evidence for harm?

45 And then we go, is there evidence for harm? You were talking about the 1,400 studies. What - 1,400 studies is an attempt by the GM industry

to pretend that they have done the proper studies. 1,400 studies means nothing, because what you need to do is look at each GM event and say, “Okay, what are the animal feeding studies? What are the developmental studies? What are the fertility studies?”

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They haven’t done all the omics studies. They don’t know what proteins they produce. They don’t know - they have done - there are so many studies that they have not done, and basically we have no idea what’s going on.

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Now, I can say actually there are thousands of studies that show harm from GM foods, and here’s a little GM myths and truths. It’s not good enough to say, “I’ve looked at the GM industry, the OGTR and the FSANZ lot and decided it’s all safe,” because there is plenty of evidence showing harm from animals.

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In fact, some of the evidence that the - I won’t go on about this, because you can ask me about this in the questions, but basically the discussion around the studies and what has and hasn’t been tested is an absolute scandal, as MADGE has already written in our submission. There is a lack of independent studies, and the studies that have been presented show harm, and yet it is glossed over, so there is plenty of evidence about the harm from GM.

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Now, have we seen this before? Have we seen before products that are sold by powerful corporations we are told are safe that turn out later not to be safe. Yes, we have. We’ve seen lead. There was a massive campaign for decades to stop the removal of lead from petrol and lead from paint. Tobacco? Well, we all know about tobacco and how the play book for that has been repeated in climate change. DDT. PCBs. Every one of us in this room is contaminated with PCBs. And Agent Orange.

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So let’s just take lead. So I looked at a 2009 study on childhood lead poisoning, and it said, “The benefits of reduction attributed” - well, basically what they’re doing is saying, how much would it benefit people to continually - to find the most lead-affected children and remove sources of lead from them. And it - for each dollar invested in lead paint hazard control results in a return of \$17 to \$221. Okay? \$17 to \$221 per \$1 invested. I think that is a massive productivity gain.

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And what it does reduce is illness, crime, attention deficit hyperactivity disorder, that are all linked to lead. And as you heard, these are the similar things that are linked to endocrine disruption. As you heard, there are similar things that are costing the EU 150 billion Euros a year. We have no idea of the costs here in Australia that we are facing,

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because no one has done the research.

5 Now, it is not just Australian mothers and eaters who are really concerned about what's happening to our food. We also have the review of Asian consumer attitudes towards GM food. And basically what it says is that people in Asia, like people everywhere, are concerned about what's happening to their food and the health of their families, and Chinese buyers currently trust Australian produce because they see it is safe and presume it is premium quality. They do not consider GM as clean, green or safe.

10 So Australia in this paper really has a choice. We can either become a supplier of GM crops that nobody wants to eat that has reduced access to the market and supply the poorest, most desperate section of the population, or you can provide premium food, non-GM food, that anyone wants to eat.

20 So what you are deciding here is actually really important, because what you are deciding is the future. You are the deciding the future of our children, our grand-children, our society. And I hope you take that into account, because we can choose low-value poor-quality GM and a society that is struggling with adults with - adult and children with reduced IQ, neurological problems and other health issues, which as a society leads to decreased opportunity, increased crime, and a bankrupt health system.

25 I mean, what we're talking about here is absolutely massive, and we are talking about power. I mean - anyway, I won't go on. But - of this Productivity Commission can actually listen to what shoppers want. Full transparency and trust in how food is produced. There is a huge demand for clean and green food growing in ways that regenerate the land - there is plenty of evidence on this - increased public health - plenty of evidence on that - and reboot the rural economy.

30 So farmers and food producers would have the security of knowing they would have an increased demand and a constant demand for their produce. Now, when I was in retail we had a saying that I think should be listened to, because I am trying to close the circle on this discussion, which is the customer is always right. Thank you.

40 **MR LINDWALL:** Well, we certainly agree that the customer is always right. In fact, that's why we believe - the Commission tends to allow for the sale through markets to people what people want, and they reflect their preferences through what they choose and what they buy. So what else are you asking for, though? If the customer's always right, I mean - - -

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MS MURRELL: I have just - no - - -

5 **MR LINDWALL:** I mean, how would you compare that to your earlier claim that you represent all of the mothers of Australia? Well, do you really represent all of the mothers of Australia? How do you provide evidence for that? I mean, you - - -

10 **MS MURRELL:** I find your line of questioning peculiar. What I was putting - I never claimed to represent all of the mothers in Australia, and I have noticed from sitting here that you seem to specialise in taking one section of what somebody says and then put behind it a whole lot of assumptions, implicit assumptions, and then frame your own question around that.

15 What I have talked about is a report that shows that people in China do not want to eat GM food.

20 **MR LINDWALL:** Well, but they are eating GM food. I mean, I don't understand how you can say they don't want to when the evidence is that they are.

MS MURRELL: And where is your evidence that they want to eat GM food?

25 **MR LINDWALL:** Because they buy it.

MS MURRELL: And where is your evidence that they knowingly buy it?

30 **MR LINDWALL:** Well, I'm not sure we have to go to that.

MS MURRELL: Where is your evidence? And what foods are labelled in China?

35 **MR LINDWALL:** Well, it's not well-labelled compared to here, that's true.

40 **MR BAXTER:** Well, it varies - I mean, it varies enormously. I mean, you can go into a supermarket or equivalent in a place like Shinjen in Shanghai and some of the bigger cities, and you'll have supermarkets that are akin to Tesco's and others in the United Kingdom or Walmart in the USA, right down to the smaller stores, right down to the - - -

45 **MS MURRELL:** I'm not sure how this is relevant. I was asking what is labelled in China.

5 **MR BAXTER:** Well, what is labelled in China will vary enormously. A lot of will be European-language labels with Chinese interpretation stuck onto the back of the label, in the event of it's a tin or a bottle, or it will be a pure Chinese label that's been put on it by a Chinese importer or manufacturer. So in many respects, it's not that different from what happens in Australia or the United States of America.

10 **MS MURRELL:** Except that we have no - effectively no labelling here, because, like, for example - - -

MR BAXTER: Well, that's not quite right.

15 **MS MURRELL:** I said "effectively". We do have mandatory labelling, but the loopholes are so large that, for example, a bottle of canola oil receives no labelling, and therefore I think that we need to go back and look at the Food Standards Act which is supposed to prevent misleading conduct. And I find it misleading as, if you go back to part of my presentation, it was talking about people are actually very tired of not
20 having their food labelled.

And do I represent, you know, the 23 million shoppers of Australia? Of course that's a ridiculous claim that I never, in fact, made. But am I aware of people who are increasingly fed up with not knowing what's in their food? Of course. Am I aware of an increasing movement towards transparency in the food system because people are falling out of it? Of course. It's everywhere.

30 You know, I mean, it depends where you choose to look, and I find it peculiar that we're looking at a sort of Chinese government where - and you're assuming that people want to buy this GM produce, and assuming that they understand the labels, neither of which you have convinced me that it's true. And there has been, you know - - -

35 **MR LINDWALL:** Well, you're assuming that they don't choose to - - -

MS MURRELL: Well, I think I'm - as I will keep saying, I will refer back to the evidence that I presented here.

40 **MR LINDWALL:** Well, that's not - I'll have a look at it, but I don't think you can claim that that's evidence of the behaviour of 1.4 billion people.

45 **MR BAXTER:** China is - - -

MS MURRELL: Okay, so you're saying that people are so different in China and these researchers have got it so wrong that they don't care about where their food comes from and how it is produced.

5 **MR LINDWALL:** You're dismissing - but you've just dismissed all of the OGTR, who will be appearing on Monday, so I will ask some of the questions.

MS MURRELL: Okay.

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MR LINDWALL: You're saying that they don't engage in scientific research that's worth listening to.

MS MURRELL: I haven't said anything like that at the moment.

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MR LINDWALL: So you accept the OGTR and, for example, Professor Mike Jones who appeared yesterday in Perth, who said to us that GM food is entirely safe, and all the evidence around the world supports that? And he says it's safer than organic food.

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MS MURRELL: I hotly contest that.

MR LINDWALL: But - are you saying that he's unqualified to say that?

25 **MS MURRELL:** I am - yes, I am saying - I am saying that it is extremely distressing that a person in his position makes those statements. And if you wish, I will go through - shall I give you some evidence?

30 **MR LINDWALL:** Could you tell me your qualifications to dispute his - he's a professor of biotechnology?

MS MURRELL: So this is - what you are saying is that you are - - -

35 **MR LINDWALL:** I'm not a scientist in this field. I'm only relying on what the OGTR has said, what the US Food and Drug Administration has said, what the World Health Organisation has said - - -

MS MURRELL: The US Food - no, no, that's - - -

40 **MR LINDWALL:** They all - and what 111 Nobel laureates around the world have said about safety, about 1,400 plant science experts. They have all universally said this. It's a bit like - - -

45 **MS MURRELL:** They have not. Excuse me.

MR LINDWALL: Is this climate change denial?

MS MURRELL: It is not climate change denial. What you are - - -

5 **MR LINDWALL:** Well, it seems like it.

MS MURRELL: Well, it is not, because the WHO did not, in fact, say it is safe.

10 **MR LINDWALL:** Well, it has - I can - hang on - - -

MS MURRELL: It has not. What it says is that it has - there has been no follow-up. There has been no follow-up. Now, if you want to play quotes, I can go away and get all those quotes, and I didn't bring my report that has it in there. So what you are doing is refusing to understand the debate. And it is not scientists on one side with ignorant mothers on the other. There is a scientific debate that has gone on, and I can produce 1,400 studies that show that perhaps GM food is not safe, and I can produce lists of scientists who can say this food - they have concerns about that, the safety of the GM food.

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25 One of the scientists is Belinda Martineux, who was the developer of the GM Flavour Saver tomato. So we are not talking about, you know, climate denial type scientists with no expertise in the thing. And I think that what you are doing is you are listening to tobacco science, and this is what I have here. I have here - if you want to go through - - -

MR LINDWALL: Are you saying that the OGTR is like a tobacco company?

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MS MURRELL: I am not saying - - -

MR LINDWALL: I mean, I don't see why we should take - well, I'm not - - -

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MS MURRELL: Do you want to talk about the science, or do you want to talk about the OGTR?

MR LINDWALL: Well, we have to rely - Ken and I ultimately have to rely on the scientific expertise, and unless you can prove that - to our satisfaction that the World Health Organisation and all the other agencies around the world are wrong - - -

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45 **MS MURRELL:** Okay. Yes. Yes, I can. I can. Because okay, you're telling me they're saying it's safe, so you're going to produce the evidence

that they've done to show it's safe.

MR LINDWALL: Well, they've testified that it's safe, and I'm going to ask the question to the OGTR.

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MS MURRELL: No, no, they have not testified that it's safe. They have not said every - okay, let's get the World Health Organisation to state every single GM that has ever been created in anything is safe, it's all safe.

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MR LINDWALL: No, all the ones that have been approved.

MS MURRELL: All right, thank you. No, no. They haven't said that. They have not said that.

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MR LINDWALL: They have said that.

MS MURRELL: Show me the evidence. Show me what you're doing. And you need to look at the whole quote. Because what they will say is - and there has been no follow-up testing.

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MR LINDWALL: You're splitting hairs here. It sounds a bit like - - -

MS MURRELL: I'm splitting hairs?

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MR LINDWALL: You're - it's a bit like evolution versus creationism here, this stuff today.

MS MURRELL: Okay, let's talk science rather than what the World Health Organisation that has never done any research into GM as its own body, it has only looked at the already existing research, let's actually have a look at the nitty gritty.

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So what do we have? I think that what would be quite interesting for you to experience is to understand one of the big controversies in science. So what we have is that in 2004 there was a 13 week safety assessment done by B Hammond into GM corn NK603. It's Round Up ready corn, okay?

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So what he did was he fed 400 rats, divided into 10 groups of 20 rats, and the rat was the Sprague Dawley Rat, and then he fed them and looked at what happened afterwards, okay? So then what happened was that Greenpeace went to the court in Europe and got the full studies of this released, and Seralini had a look at it all, and then what they noted was that there was some harm appearing. There were some differences in the

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GM and non-GM fed rats.

5 And so what they decided to do was they took the same strain of rat, the Sprague Dawley Rat, and they took the same corn, NK603, and they did the same protocol, 408, OECD 408, and instead of just doing two levels of doses of Round Up - of the feeding, they did three, so three concentrations, 11, 22 and 33 per cent. They also separately fed the rats the Round Up in the water and saw what happened with that. And they did it for two years.

10 So I want to be very clear about this. They used the same OECD protocol as Hammond did. They used the same type of rats, which was the Sprague Dawley, they used the NK603 Round Up ready, and they actually - because although Hammond fed ten groups of 20 rats, he only tested 10 rats in each group, so - and there is no explanation of why he didn't test the other 10 rats.

20 But what Seralini did was he had 10 rats in each group, but he tested every single one of them. And I'm sure that you know what happened. He found disruption in the livers and kidneys and unexplained tumours. It was not a cancer study, and it was a toxicological study, and it did find differences, and they were severely concerning.

25 It was published in the Food and Chemical Toxicology Journal in November 2012, and a year later it was withdrawn because it has subsequently turned out the machinations of Richard Goodman, who used to work for Monsanto, and there is now an email trail of his activities and how he managed to get the Seralini paper removed, retracted.

30 Now, it's very important to understand - it's very important that you understand this. There are three versions of why you can retract a paper: plagiarism, honest mistake, or falsity, fraud. The Seralini paper was none of those. It was retracted on the grounds of inclusivity, which is not a grounds for retraction, and if it was, things like the discovery of DNA would have to be retracted as well, because that is the nature of science. You do things and then you move on.

40 So this retraction of this food and chemical toxicology study was an absolute scandal, and hundreds, hundreds of scientists signed protests against this, because they were absolutely outraged.

45 It has since been published in the Environmental Science Europe Journal, and stands in the scientific literature. It has been peer reviewed. It stands in the scientific literature. I am sure, I know, you have been told that it was the wrong rats, the wrong study, it's not good, it's rubbish.

5 That, I think, shows the problem with this entire panel, which is you are not a scientist, that is quite right. I am not a scientist, that is quite right. But I have taken the time to read the science. I have taken the time to talk to scientists. I have taken the time to go through FSANZ and I have written reports on the poor science that they are looking at.

10 In fact, a MADGE report showed that, for the Round Up ready canola that is growing here, Monsanto could not - did not know what protein it was producing. That is incredibly important, because proteins lead to allergies. They did not know the sort of protein that they were doing. So they gave FSANZ a differently characterised protein, and FSANZ says that's fine.

15 Now, we know that because we looked through the data, and you have not done that, and I find it quite surprising that I am coming here with evidence of pesticides undermining people, market rejection, I have explained this to you, and at the end of the day I am sure you will go home and dismiss it. I have got a whole book here. Are you interested in looking at this? Are you interested - it's fully referenced.

20 These are - these are scientific studies that show harm. I can go through and tell you that the Van Eenennaam which says a hundred trillion animals have been fed showing GM safe. No, it hasn't. What those hundred million animals are, 98 per cent of them are broiler chickens. They're fed for 49 days. That does not tell me that it is safe for me to eat or feed to my children or my husband. That is just not science. It is - - -

30 **MR BAXTER:** Fran, I don't want to cut you short, but time is limited.

MS MURRELL: Yes, you do.

35 **MR BAXTER:** But can I just make the observation, you have just asked the question have we read much of this science. The answer is I probably haven't read as much as you have, but over the time that we received this commission from the Treasurer, I have spent a very considerable amount of time reading through a lot of this material, on both sides of the fence, or both sides of the argument.

40 Just let me finish. I have also had discussions with a very broad range of people who work right across the food and the university sectors. I am not going to make any comment at this stage. I would be interested to see the book which you are waving around. But I would add, I don't think at this point we are gaining a great deal by having a back and forth which

says “they said, we said”.

5 We have a limited amount of time in which to finish our report. I will go back and, as our staff have done, we will re-read a lot of this material. We would be pleased to receive whatever it is you want to submit to us. But I don’t see a great deal of use in running through what, you know, becomes a fairly contentious slanging match at a meeting like this.

10 **MS MURRELL:** I am sorry you feel this is a contentious slanging match, and that’s why I raised the issue - - -

MR BAXTER: Well - - -

15 **MS MURRELL:** - - - about lead, PCBs, tobacco. This is a very, very common - - -

20 **MR BAXTER:** Well, just - I also took a considerable interest in the lead issue, and if you go back over history, a lot of the water that is piped around parts of Europe have been flowing through lead pipes which were installed at least 1500 to 2000 years ahead of Christ’s birth. And from the studies that have been done there is no evidence, no credible evidence, and admittedly in a lot of these periods there was no scientific organisation to assess it, but no evidence that there were serious deaths.

25 Now, I’m not going to enter into it, because there is also clear evidence from the lead smelters that existed in Broken Hill and in Port Pirie that there were very serious events that arose from the lead exhaust. But I don’t see we gain a great deal, Mr Chairman, in entering into this back and forth discussion at this stage.

30 **MR LINDWALL:** So I am happy to give you another minute, but we have to go then, Fran.

35 **MS MURRELL:** Okay. Well, it’s extremely clear that other bodies that look into this around the world, including the Royal Society of Canada, did an excellent report in 2001 about the gaps in the knowledge about GM, which still have not been filled.

40 You have also got the Austrian government. You have the Norwegian government. So because you are listening to FSANZ and OGTR and you have spoken to some scientists - and this is the problem. I mean, if you really have looked into both sides, you would be able to come over to me and talk about some of these issues and the way that you found your way through them, and I’d be very happy to do that. I invite you to come and show me the studies and the things that convinced you

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that it is safe. I happily invite you to meet up with me and do that, and I request that you send me what has persuaded you that this is safe.

5 **MR LINDWALL:** Well, you'll see our final report when it's published.

MR BAXTER: Exactly.

MR LINDWALL: We don't engage in - - -

10 **MR BAXTER:** I'm also happy to send you a complete box of about that high by about that wide that's sitting in the back of my study at the moment.

15 **MS MURRELL:** And you have read it and understood it?

MR BAXTER: I have a read a lot of it, yes.

MS MURRELL: Okay, and I would like you to pick the top five and send them to me about why you are considering that they are safe.

20 **MR BAXTER:** You'll see what I'll do.

MR LINDWALL: Anyway, Fran - - -

25 **MS MURRELL:** Yes, I would be very grateful for that.

MR LINDWALL: Fran, thank you for appearing before us today, and I wish you well.

30 **MS MURRELL:** Thank you.

MR LINDWALL: So with that, we will adjourn today's hearings. We will continue tomorrow in Wagga. Sorry, opportunity for comments, please, yes. Yes, please come up. Sorry, I should have offered anyone who wanted to - we always offer the opportunity, so we - please. Excuse me, Fran, this - - -

MS MURRELL: Sorry.

40 **MR LINDWALL:** Did anyone else want an opportunity? Okay. Could you just state your name and organisation and - - -

45 **DR MCCORMICK:** Yes, sure. I'm Dr Nina McCormick. I work for Monsanto. I am a scientist. I have a PhD in plant molecular biology. I created GMOs for my PhD, and then worked for four years characterising

GMOs for another biotech company and now work for Monsanto.

5 So I could spend the next hour countering a lot of the points that were just made. However, I just wanted to clarify one point - or actually, no, two. First of all, FSANZ and OGTR are seen as pillars globally in how they regulate GMO, and countries such as China, amongst other, frequently come to them for guidance and advice on regulating GMOs.

10 And the second point I would like to make was in regards to the EU comment that Bob made, which was incorrect. The EU does have a functioning regulatory system. They approve GM events and the import millions of tonnes of soy bean and corn.

15 **MR PHELPS:** For ethanol and animal feed.

DR MCCORMICK: That's it.

MR LINDWALL: Thank you very much for appearing.

20 **DR MCCORMICK:** Thank you.

MR LINDWALL: Did anyone else want to - - -

25 **MR PHELPS:** Ethanol and animal feed, not for human consumption.

MR LINDWALL: All right, with that we'll adjourn and appear in Wagga Wagga tomorrow. Thank you all for coming, and we wish you well.

30 **MATTER ADJOURNED AT 3.34 PM UNTIL THURSDAY, 18 AUGUST 2016 AT 9.00 AM**