



Australian Government
Productivity Commission

PRODUCTIVITY COMMISSION

INQUIRY INTO REGULATION OF AUSTRALIAN AGRICULTURE

MR P LINDWALL, Presiding Commissioner
MR K BAXTER, Commissioner

TRANSCRIPT OF PROCEEDINGS

AT BRISBANE
ON WEDNESDAY, 24 AUGUST 2016 AT 8.42 AM

INDEX

	<u>Page</u>
PROPERTY RIGHTS AUSTRALIA MS JOANNE REA	482-495
WILMAR SUGAR MR SHANE RUTHERFORD	496-509
AUSTRALIAN CANE FARMERS ASSOCIATION MR DON MURDAY	510-525
INSTITUTE FOR AGRICULTURE AND ENVIRONMENT, UNIVERSITY OF SOUTHERN QUEENSLAND MR KEVIN NORMAN	525-532
QUEENSLAND CANEGROWERS MR PAUL SCHEMBRI MR DAN GALLAGHER MR WARREN MALES	532-544
NATIONAL HEAVY VEHICLE REGULATOR MR RAY HASSALL MR PETER CAPRIOLI MS TANIA McDONALD	545-557
AUSTRALIAN SUGAR MILLING COUNCIL MR DOMINIC NOLAN MR JIM CRANE	557-571
AUSTRALIAN FOOD SOVEREIGNTY ALLIANCE MR PHIL STRINGER	572-580
MS SANDRA BAXENDEL	581-591
QUEENSLAND SUGAR LIMITED MR GREG BEASHEL	592-605
TULLY SUGAR LIMITED MR NIGEL SALTER	605-611
QUEENSLAND REGIONAL NRM GROUP COLLECTIVE MR ANDREW DRYSDALE	612-615

MR LINDWALL: Well, we'll kick off then. Good morning, everyone and welcome to the public hearings for the Productivity Commission inquiry into the regulation of agriculture. I'm Paul Lindwall, the Presiding Commissioner of 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, and then we released a draft report on 21 July after the election and have received over 100 submissions and more than 1,000 personal responses and views since the release of the issues paper.

We're grateful to all of the organisations and individuals who have taken the time to meet with us to prepare submissions and appear at these hearings. The purpose of the hearings is to provide an opportunity for interested parties to provide comments and feedback on the draft report.

Today is the sixth hearing for the inquiry. Last week we conducted hearings in Perth, Melbourne, Wagga and Sydney, and conducted hearings in Canberra this week. Tomorrow we're in Townsville and next week we'll be in Hobart. Formal submissions to the draft report are invited preferably by the end of the month.

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

We like to conduct all hearings in an informal manner, but I remind participants that a full transcript is being kept and will be published on our website. For this reason, comments from the floor cannot be taken, but at the end of the day's proceedings we'll provide an opportunity for anyone who wishes to comment to do so.

Participants are not required to take an oath, but are required under the Productivity Commission Act to be truthful in their comments, and they're also welcome to comment on the issues raised in other submissions or by other people at various hearings.

As I said, the transcript will be on our website, as are submissions to the inquiry. For any media representatives, and I don't think there are any, but if there are, there are some general rules apply. Please see Oliver or Rowan, our staff here, for a handout which explains the rules.

5

To comply with the requirements of the commonwealth occupational health and safety legislation you are advised that the unlikely event of an emergency requiring the evacuation of the building you should follow the exit signs to the nearest stairwell and not use the lifts. Please follow the instructions of floor wardens at all times.

10

If you believe that you are unable to walk down the stairs, it's important that you advise the wardens who will make alternative arrangements for you. Participants are invited to make some opening remarks of around five minutes, and keeping the remarks brief to allow us to discuss the matters in greater detail.

15

And now I welcome Joanne Rea.

20

MS REA: Thank you. Joanne Rea, Treasurer of Property Rights Australia. I've got three points I want to cover today. One is - - -

25

MR BAXTER: Could I just - could you just briefly outline for us membership of Property Rights Australia and the number of members you've got?

MR LINDWALL: You're talking about the organisation?

30

MR BAXTER: The organisation.

MS REA: Okay. We're a membership organisation. We have - and it varies from season to season, the drought's knocked us around a bit - but up to 500, and that's enterprises, not people.

35

MR BAXTER: Yes. And - - -

MS REA: Mostly in rural Queensland. We have members, though, in all states, and we have urban members as well who join us to support us.

40

MR LINDWALL: Please.

45

MS REA: Okay, I've got three points I'd like to cover today. One's the right to say no, and I'll answer any questions on that. I covered it extensively in my follow-up submission. Another's the Great Barrier Reef and how it's used against agriculture. We've had a campaign which

ended in legislation not being passed by one vote only in Queensland last week on Thursday when I was trying to complete my submission and try and follow the parliamentary debate as well, and the campaign there was characterised by lies, damned lies and statistics, and the agricultural community and the knock-on effects to the tourism industry where they have been vilified has been disgraceful.

There was a report in the Courier Mail just yesterday where some tourism operators had gone out and done their own survey following where there was supposed to be total white-out on the reef, with 93 per cent of the coral covered, and they found that that was far less extensive than that, and that the reef was recovering well.

We also have some scientific papers and some scientists who support us and say that it's all exaggerated. But organisations like WWF, the Wilderness Society, et cetera, who have DGR status, fly very close to the wind in joining in political campaigns. They have billions of dollars at their disposal plus a lot of government money, and the agricultural industry just cannot match them.

I've been sent a link this morning from the Wilderness Society where they say they're going to come up again and attack the legislation again with their billions of dollars, and a link to a beef central article, where the quotes were from a very distinguished woodland scientist who worked for 40 years in Queensland at a time when science really was balanced and not cherry-picked, and they're just saying, well, they're not listening to people like him, and that's the way it is.

I've found articles going back to 2001 where WWF had decided that no other causes of damage to the reef would be considered except agricultural land use. There have been several so-called independent reports done for the Queensland government by Marsden Jacob Associates in 2010. They decided the cheapest option to attack was the agricultural use, amongst many other causes or likely causes to damage to the reef.

In 2013 their report said the costs were from 275 million to 500 million to remediate or prevent damage from agricultural use, and by 2016 the cost had blown out to \$8.2 billion. So we are thinking that perhaps some of those other more expensive options which were dismissed in 2010 may now be economical against \$8.2 billion, most of which should be spent, according to them, in the Fitzroy catchment for what is commonly known as gully-blocking to prevent sedimentation.

We have papers also done by scientific experts, one of which I'll quote from here now. "However, annual freshwater and sediment

discharged to the Great Barrier Reef Lagoon has not significantly increased since the mid 1960s” - when a lot of tree clearing was done - “in fact, flow and sediment discharge have decreased, and decreased significantly for certain 30 year periods.”

5

I would also like to say it’s just shameful that landowners, farmers, tourism operators, need to go searching for scientists who will not only give an unbiased opinion to combat the well-funded and dishonest campaigns of green organisations but who will also work for nothing, because we are not well-funded.

10

Competition policy. I would also like to take issue with the Commission’s opinion that there is adequate competition and adequate law already in place for primary producers. Several senate inquiries have not come to that conclusion, and there have been some recommendations around strengthening the Australian Competition and Consumer Act, and there has been a suggestion that there should be a US-style Packers and Stockyards Act on behalf of agricultural producers. The view that the supply of agricultural producers is limitless and that primary industries just undergo structural adjustment is an attitude that comes through from the Commission and not in a positive way.

15

20

In policy and recommendations, in discussion of the sugar industry, for example, that has come through loud and clear, but it is an attitude common to all agricultural industries. The Commission wants foreign investment to increase the efficiency of mills, processing plants, et cetera, but if that leaves producers in a situation where they are unable to bargain on price, that seems fine by the Commission.

25

30

Not all dislocation is efficient structural adjustment, but we tend not to know it until it is too late. There has already been an example with the dairy industry. Producers go broke in numbers, plants and corner stores close down. Rather than structural adjustment, it has more of the odour of predatory pricing. Short term market blips should not be a justification for such churn in a long-term industry.

35

In Australia most, if not all, productivity increases are captured by those further down the supply chain. In the US, detailed analysis of beef price spreads between producer-wholesaler, wholesaler-supermarkets, shows share of the retail dollar. In the US, the share is usually above 50 per cent, but the salient point is that if the supermarket share rises the assumption made is that the supermarkets have become less efficient.

40

That is certainly not the case here, where supermarket’s share is usually large as a result of market power. I will take questions now.

45

MR LINDWALL: Thank you very much. Would - how about we talk first about the issue on the environment.

5 **MS REA:** Yes.

MR LINDWALL: Now, in our report we said that there should be a better balance between environment, economic and social aspects.

10 **MS REA:** Yes.

MR LINDWALL: Which it sounded like you would agree with.

15 **MS REA:** Yes.

MR LINDWALL: Now, we can't really say too much about the runoffs, and as you say, the Barrier Reef, we will take that testimony but I'm not sure I have particular questions on that testimony. Did you, Ken?

20 **MR BAXTER:** No.

MR LINDWALL: But did you - are there any techniques that sugar farmers, for example, are considering that might limit their runoffs, which would then address some of these concerns? Whether the concerns are exaggerated or not, which - - -

25 **MS REA:** Yes. Yes, there is, and they are participating in those sorts of things. One of the actual limits to the number of farmers that participate - and participation is actually used as a proxy measure of how much people are doing, which is not correct, not accurate - one of the limits is that a lot of the associations who are promoting a lot of the programs also have a connection with WWF, and many farmers quite understandably do not want to be associated with anyone who is in any way, shape or form, no matter how distant, associated with WWF.

30 **MS REA:** And of course, farmers do things to help the environment under their own steam all the time. They are the true environmentalists.

35 **MR LINDWALL:** Well, we said that in our report, yes.

40 **MS REA:** They walk out every single day and know that if something is drastically not in order their business is going to be what suffers, and I basically regard a lot of the green organisations as dishonest interlopers.

45 **MR LINDWALL:** Your organisation, Property Rights Australia, of

course, the title is something that we allude to, not the organisation per se, in our report, that well allocated property rights, of course, give an incentive for the owner to maintain the property, to maintain a high value for that property.

5

MS REA: Yes.

MR LINDWALL: As opposed to what Ronald Coase said many years ago about the tragedy of the commons, where it's often degraded if it's not protected in such a way.

10

MS REA: Yes. They are under attack, however, in lots and lots of small ways. We actually see the huge amounts of money being thrown at the Great Barrier Reef without any checking or quality control of the science as a negative. We would like to see people out there who are more balanced rather than just deciding that agriculture is the sole cause of all the damage.

15

MR LINDWALL: We often see incidents where because of social media and other forms of communication today misinformation can be spread fairly quickly. Is there any - do you have any advice on how to get better information out there to help correct perceptions? And I can think of it in other areas too.

20

MS REA: Well, we do use social media ourselves, but we tend to be siloed from urban mainstream media because we are agricultural.

25

MR LINDWALL: Yes. Yes, that's true. On competition - did you want anything more on that subject?

30

MR BAXTER: No, not on that subject.

MR LINDWALL: On competition policy, in our report, and I think there was some - after the draft report was published there was a bit of misunderstanding that said that we didn't agree with the changes in section 46 of the Competition and Consumer Act, but I think we've expressed a view, if you carefully read what we said, that we don't think it's a silver bullet, that changes that people asked for the CCA - Competition and Consumer Act - that supposedly would provide benefit, we're a bit sceptical in the agricultural sector that they might actually get the benefits that they actually think.

35

40

MS REA: Well, I think misuse of market power used to be one that everyone sort of clung onto. We, certainly, Property Rights Australia, have dismissed that because it's not relevant to us really, and I think Rod

45

Sims at some of the Senate hearings has certainly said that. However, there are things that we would like to see.

5 We believe that the effects test could possibly help us, but there was one that would have been relevant to the Barnawartha sale yard investigation called concerted practices, and collusion is very, very difficult to prove. But concerted practices certainly are a lot less difficult. I mean, that was just a total nightmare, the Barnawartha thing, when nine usual processors failed to turn up on the same day. I mean, there was even
10 not so much confusion but no responsibility for anyone to let growers know that there would be limited market opportunities on that day.

15 So I think there are certain things that need to be done, and I know a lot of organisations talk about reviews that the ACCC have done. Until we have the agricultural unit, expertise in agriculture always seemed to anyone who knew anything about it to be lacking in some way, shape or form. Certainly having the Agricultural Commissioner has hugely improved the situation, but I mean, something like that's a budget cut away from not being there anymore, so we actually need the laws to be set
20 up so that they can be used at any time.

MR LINDWALL: Do you want to ask about competition policy?

MR BAXTER: I note in your submission you talk about the two major
25 retailers.

MS REA: Yes.

MR BAXTER: I notice that in the marketplace now in addition to Coles and Woolworths we have Aldi, Harris Farmer Markets, IGA and a whole series of others, and having observed the operation certainly of the Flemington Markets in Sydney where quite a few of the Queensland producers offer their product for sale, the competition between those
30 retailers seems to be quite active, and we also, when we visited Queensland earlier in the year, we went up to see a number of the (indistinct) producers, and while they had particular complaints about some of the receival practices at firms like Woolworths, there is a general satisfaction that the increase in the number of retail outlets was in fact
35 positive for them.

40
MS REA: Well, we welcome that competition, but the fact is that at the moment it's still quite small, and mostly in urban areas. I mean, you don't have an Aldi, for example, in Rockhampton or any - we have IGA but we don't have Aldi or any of the others, and while the percentage is quite
45 small it really is not going to make a huge difference, and the industry I

know most about is the beef industry, and it certainly isn't making a huge difference there.

5 I mean, in 2013 and 2014 beef producers had record low prices. I don't think they've ever been as low before, adjusted for inflation. And yet we saw nothing happening in the supermarkets, and the butchers, of course, followed the supermarkets. There was no observable decrease in price.

10 Now, every other time that there's been a so-called glut of beef we have eaten our way out of it because consumption - the prices have come down and consumption has gone up considerably. We were just there stuck, basically, with the price of the live animal record lows, beef not coming down in the supermarkets, record prices in overseas markets.
15 Beef producers were going out the back door at a rate of knots while the processors were making a fortune.

MR LINDWALL: That - I don't dispute that, but the thing about
20 competition is, as many studies have shown, is that the threat of entry by new entrants has to be there, and that gives a constraint on provision of suppliers in the case of monopsony purchasers that you're talking about, that if there's a threat of entry they can undercut the monopolist or the monopsonist. That is important, and so what do you think is a constraint
25 in that area that stops a new entrant coming in and providing a better product, purchasing power, for the farmer, for example?

MS REA: Well, certainly expense and regulation are two of them, and a lot of single site processors have actually been taken over by the larger
30 companies, which we have seen as a threat, and certainly there was a huge outcry over Scone being taken over by JBS.

And it's not just the competition in the marketplace. I mean, when these companies become big, their power in organisations such as the
35 producer-funded Meat and Livestock Australia (MLA) and all of the organisations that hang off there, which is impossible for almost anyone to follow, and the little power centres that exist through them, and their representation all through those power centres is really what stops us from getting a lot of what we need.

40 **MR BAXTER:** Yes, just - can I just query that? That in terms of MLA and similarly with the dairy farmers and to a lesser extent with the grain growers, there are regular elections of members, and there are opportunities for the producers to throw out the people they don't like, and - - -

45

MS REA: I'll take issue with that one. Did you say at the beginning that you said you disagree with that? I'll actually - - -

MR BAXTER: No, no, I didn't say I disagree. Well - - -

5

MS REA: I'm sorry, I didn't hear you. I'm having trouble hearing.

MR BAXTER: No, I question that, because if you look at the major organisations that exist, the producer organisations, there are well-supervised elections for producers to vote to put in people that they want to see on the boards of those organisations.

10

MS REA: In the MLA that's a nonsense.

15

MR BAXTER: Well, no, I'm sorry, it's not.

MS REA: It is.

20

MR BAXTER: Well, I put on the record that it's not, and I stick my hand up as a beef producer, and I voted at the last election of the MLA, as did a lot of my colleagues. Your proposition just doesn't stack with the facts.

25

MS REA: Well, the greatest payers of levies to the MLA itself are actually the beef processors, and it takes the top 200 producers to outvote those processor levy payers. And the fact is many organisations have tried for many years to do something about the system and to do something about the people that are in there and to try and change it a bit, and it is impossible.

30

MR BAXTER: Well, again I dispute that as a factual proposition. Three years ago there was a meeting called by the then-Minister for Agriculture at which the whole spectrum of the beef and sheep meats producers debated very actively the electoral procedures and the structure of the MLA and the organisations that hang off it, and the end result was a very open discussion. It was one which wasn't dominated by - - -

35

MS REA: How many people were there?

40

MR BAXTER: There were about 300 or 400 people there, and it was very representative of the beef cattle industry ranging from Northern Territory and Queensland through to producers in Tasmania and Western Australia.

45

You would have to say, if you read the transcript of that meeting, it

5 was a rigorous democratic discussion about the strengths and the
weaknesses of the system and the measures that might be put into place. I
would have to say to you, having had a long experience in the agricultural
sector, when things are going well producers tend not to participate in
10 organisations of this kind. It is only when disaster hits that they then
become actively involved, and if you want a classic example of that,
Murray Goulburn in the dairy industry at the moment is an example where
when things were going well the producers, or a lot of the producers, took
no active interest. The board of Murray Goulburn, which was
15 predominantly farmers, did not take an active role in responsibility for the
operation of Murray Goulburn, and the end result was that managing
director Gary Helou, and I am happy for this to be on the record, really let
fly with what were his ambitions, which were never properly ticked off by
the board.

15 Now, in those circumstances it's surely the directors of the board who
should resign, and it's those who should hold the responsibility?

20 **MS REA:** Well, against the several hundred in the debate that you were
talking about, we also have had a couple of Senate inquiries, the first one
into the grass feed levy payers, which attracted several hundred
submissions, and the theme through that was that producers were very,
very unhappy with the governance and the way the industry was being
run.

25 And I think that that should be listened to as well. It has been all but
dismissed by everyone from the MLA board to Red Meat Advisory
Committee (RMAC) to all the other organisations that have power centres
through there, and they have come up with a strategic plan that takes on
30 board none of the things that were asked for producers, and none of the
recommendations, or perhaps one to a degree, that were made by the
Senate inquiry. So I think perhaps we might agree to disagree.

35 **MR LINDWALL:** How about we discuss your proposal on the right to
veto, or the right to say no, I think is - - -

MS REA: The right to say no? Okay, I'll answer any questions on that,
then.

40 **MR LINDWALL:** Now, as it turns out I produced a report for the
Commission in 2015 about gas markets, and you would appreciate this in
terms of property rights. Property rights are of course a bundle of rights
and responsibilities that are assigned to an owner, if you like, that can vary
over time, and in Australia since around about 1860 there is a clear
45 delineation between the property right to the landholder, which is above

the soil, and the property right below the soil of minerals and resources, which are owned by the Crown. No doubt about that at all.

MS REA: None.

5

MR LINDWALL: And in the United States it's quite different. The landholder owns the subsurface minerals and resources. Whether one system is better than another, I don't know, but we didn't exactly examine that, although I would say that in principle if you were to move from the Australian system to the US system where there is an acquisition of additional rights the landholder should pay for those additional rights.

10

MS REA: Well, can I just clarify something? We're not saying that the minerals should be vested in anyone but the Crown, but what we're saying is - and we're not thinking that projects should not go ahead. What we're thinking is that the degree of respect shown to land owners and the degree of reimbursement for loss would have to be closer to what the real costs were, and that is not happening at the moment.

15

MR LINDWALL: I think that yes, you're right. I mean, we did say in our report that there are egregious examples of bad behaviour by some - especially in the early days of coal seam gas producers who would roll over a fence, would leave gates open, do all sorts of - not remediate the property damage to the extent they should, and it's quite clear that that was terrible behaviour.

20

25

It's also quite clear that there should be compensation paid by the resource user to the landholder to compensate for those types of damage to the property to restore it to its ex ante position. But, and this is the key, when it comes to the value of that resource which is being extracted and sold, there is no right to share the rent of that, in other words, the value of that.

30

MS REA: No. No.

35

MR LINDWALL: And my concern is that and this is why in our report we said that we did not agree with the veto - is that a veto gives a very - well, gives extremely strong power to the landholder to basically hold the resource developer, in other words the Crown and its agents - to hold them to a position where they must agree to share the rents, which is then extracting value from the Australian taxpayer, the Queensland taxpayer but Australian taxpayers in general, which rightly belonged to them and not to the landholder.

40

MS REA: We did not come to this position lightly. We came to this

45

5 position after years, literally years, of dealing with people who were trying
to deal with resources companies, who were trying to get the amount of
compensation that were justified, who were trying to ask for laws that
would just make the situation more workable, and I think I've outlined
10 some examples of some laws in my submission where the only changes
are in favour of the resources companies, and we believe that the
government has become unable to make fair laws because it has that
financial interest, it has the right to the royalties, it does own the minerals,
and it's behaving like a multinational company rather than someone who
is there to govern on behalf of all the citizens.

15 And we see awful cases where people are left hundreds of thousands
of dollars out of pocket, and first-time landowners are probably the most
vulnerable, the ones who have to deal with the resources company first up.
They go along to the negotiations, they don't realise that there's a time
limit on it, they go to various sorts of mediations and don't realise there's
a time limit.

20 I actually have one who found herself in the Land Court thinking that
her expenses would be paid by the mining company, and they weren't.
She was given a compensation payment, but not nearly enough to cover
the payments.

25 **MR LINDWALL:** I was given - when I visited Queensland for that
project a few times, I was given - when the Queensland Gas Fields
Commission was created, I was - - -

30 **MS REA:** The Gas Fields Commission is there to facilitate the gas
industry.

MR LINDWALL: But I thought they were also there to ensure that
compensation that's paid is fair and reasonable.

35 **MS REA:** They are not an advocate on behalf of the land owner. They
smooth things over where they need to in order to facilitate the gas
industry, and if you read their charter, it will clearly say that.

40 **MR LINDWALL:** I just say that the department that I spoke to at the
time had a different view. They thought that it was helping to improve the
relationships between - I thought that in more recent times - - -

MS REA: That could have been an outcome.

45 **MR LINDWALL:** I thought in more recent times there had been better
relations between landholders and resource companies?

5 **MS REA:** In some cases, yes, and I mean, there's differences between resource companies, and there's differences within a resource company given time and geography as well, but the fact of the matter is there are still a lot of landholders who are hugely disadvantaged by it.

10 **MR LINDWALL:** Okay. Because I understand that, for example, Santos has an arrangement where in the first year 120 per cent of the value of the land will be paid, in subsequent years 60 per cent of the value of the land, and there's a \$30,000 annual fee payable to the land holder, and also legal fees to help them to understand the contracts and so forth.

15 **MS REA:** None of those, including the legal fees, are usually paid by the companies until after they have a conduct and compensation agreement, and sometimes that can take years.

MR LINDWALL: As I said, in the report we did say that there was a case for a much better relationship with the landholders.

20 **MS REA:** Yes, there is a case, and I mean, some companies are not too bad. But there are some companies who need a bit more push behind them to make them a bit more cooperative.

25 **MR LINDWALL:** All right. Thank you very much then, Joanne. Did you have any - - -

MR BAXTER: Can I change the subject? Animal welfare?

30 **MS REA:** Yes.

MR BAXTER: Your proposal or reaction to our recommendation is that - I think you used the words that the producers should be able to go their own way, I think was what you - - -

35 **MS REA:** You said that you wanted a national committee.

40 **MR BAXTER:** Well, a national body which determines consistent practices across the whole of the country, and exacerbated particularly by the incidents that occurred in Vietnam which, you know, whether you agree with them or not clearly had a very adverse reaction.

45 **MS REA:** Absolutely. Look, I'm not anti animal welfare. Don't read that into it. What I was anti was the national committee. And I think the Exporter Supply Chain Assurance System (ESCAS) program, particularly in the speed with which it was put together, have done a wonderful job.

They probably need to keep working on it all the time to make sure that it keeps in touch, and there's also third party liability, which doesn't usually happen in western legislation.

5 However, my objection to a national committee, with experts, and you wanted the whole gamut represented, you wanted environmentalists and you wanted animal welfare and you wanted representatives of the industry, my problem with that is just the experiences that I've had in trying to deal with agencies like the green agencies. They basically want
10 what they want and they are not prepared to negotiate.

 Quite possibly I think the animal welfare agencies are the same, and as for saying we want experts from universities or whatever, some of the experts from the universities, depending on which ones you get, have got
15 some very weird ideas. I mean, you've got people like Professor Peter Singer and you've got somebody from Sydney University who thinks animal rights should be on an equal footing with human rights, and I'll quite easily say that I do not agree with that. I don't - I'm not somebody who thinks that people should be allowed to treat animals harshly. But
20 when you talk about a panel of experts, I want to know that they're going to be the ones - the right ones, and I want to know that if they're not the rights ones we can get rid of them.

MR BAXTER: Have you had a look at the New Zealand structure?
25

MS REA: No, I haven't.

MR BAXTER: Which is certainly a well-established independent authority headed by a practicing veterinarian with a composition of people
30 from the major animal industries, which in New Zealand of course are dairy and beef cattle and sheep, and also departmental officials. It has worked very effectively with great support from the New Zealand Farmers Federation, and it's the sort of model that we're envisaging.

35 I mean, the situation we have at the current state is a consequence of our federation, because we have different laws between the states, we have different practices, there's no consistency, and yet many of the beef cattle producers involved with the export trade are working out of at least two if not three of the states of the commonwealth.

40
MS REA: Okay, look, I'm not going to argue with that, and I'm sure the New Zealand one does work well, but there's a lot of things that work well in New Zealand simply because it's a much smaller community to start with, and also agriculture there is intrinsically valued as one of their
45 major industries.

In Australia we are actually under threat from multiple different sources and we have to be careful who we hand power over to have power over our industry.

5

MR LINDWALL: Fair point. I think we have to wrap it up shortly.

MS REA: Okay.

10

MR LINDWALL: I just wanted to add onto that - and we will expand on the governance issues if we go ahead with this body, but we don't see things - it's very poor governance to say someone represents something. When you work on the board of an organisation you represent the organisation that you are on the board of, not any other third party, and that's very poor governance if someone thinks that they represent, you know, this community or that community.

15

MS REA: I've seen some very poor examples, then.

20

MR LINDWALL: I know.

MS REA: I actually have a pile of papers here that relate to my address.

MR LINDWALL: Thank you, yes.

25

MS REA: May I have permission to table these?

MR LINDWALL: Yes, certainly. Well, thank you very much for appearing then, Joanne.

30

MS REA: Thank you.

MR BAXTER: Thanks, Joanne.

35

MR LINDWALL: Well, we will talk to Shayne Rutherford now. I have been asked to say that of course there is tea and coffee, and we will have a short break after this, but also speak up a little bit because apparently the air conditioning might be drowning out your voices, although I think transcript is fine.

40

MR RUTHERFORD: (indistinct)

MR LINDWALL: Okay.

45

MR BAXTER: All right.

MR LINDWALL: All right.

MR RUTHERFORD: (indistinct)

5

MR BAXTER: Is this actually working?

MR LINDWALL: No, it doesn't amplify, no.

10

MR BAXTER: Right.

MR LINDWALL: Is it Ken or me?

MR RUTHERFORD: It depends. It depends.

15

MR LINDWALL: Okay, right. Don't cover your mouth. Speak up. Project your voice. Think you're an opera singer. That would be a great misfortune. Please, Shayne.

20

MR RUTHERFORD: Good morning. Obviously my name's Shane Rutherford. I'm from Wilmar Sugar, and Commissioners, thank you very much for the opportunity to meet today. I don't want to waste valuable time retracting ground covered in our submission. Rather, if you agree, I will speak briefly and then with as much time available for questions.

25

The Productivity Commission has a long experience with the sugar industry, so I don't feel it necessary to talk at length about the emotional undercurrent to the sugar marketing issue, which is obviously something I'm talking about today, or the raft of industry reviews and generations of history between millers and growers that precede and often colour contemporary views.

30

However, I do want to acknowledge that many of our growers have very real concerns about the future of their farms, their finances, and their families. On top of the many challenges that they face from weather, pests and disease, increasing input costs and environmental expectations, sugar, as you know, is one of the world's most volatile globally traded commodities.

35

And in fact the Australian sugar industry is still recovering from decades of low global sugar price and under-capitalisation, during which the time - during that time, sorry, the international competitiveness of our exports was significantly eroded and the viability of our mills and our farms was at real risk. In fact it was only five years ago that we bought the Proserpine Sugar Mill, a grower-owned sugar mill, out of

40

45

administration.

5 There is no question that the prospects for the sugar industry were grim before investment capital was injected. For investors like Wilmar, the legacy of sustained under-capitalisation has been expensive, though. Since acquiring them in 2010, we've poured about \$1 billion in maintenance and capital into our eight mills to bring them to acceptable and sustainable levels of safety, reliability and efficiency.

10 Commissioners, foreign investment in Australia's agricultural industries has attracted considerable media attention in recent weeks, with commentators, regulators and business leaders all acknowledging its value. In fact, there could be few industries where foreign investment has been more valuable than in our sugar industry.

15 A common theme of the recent commentary is that foreign investment we should value most as a nation is investment that drives growth, innovation, and opportunity, and again, there could be few industries where the injection of foreign capital has been more vital and more productive than in our sugar industry.

20 Steve Greenwood, the then CEO of Queensland CaneGrowers, recognised this when he said in a 2012 media release, and I quote, "Foreign investment has been enormously positive for the Australian sugar industry, which is currently undergoing an extensive resurgence." Unfortunately today we are left questioning the wisdom of legislation that has the industry withdrawing from a resurgence to retreat once again into a stifling regulated regime that penalises existing investors and discourages new spending, and more importantly continued innovation.

30 The Courier Mail editorial of 3 December 2015 put it succinctly the very morning after the so-called grower choice legislation was passed. It said, and again I quote, "It just beggars belief that the Parliament would even consider such a move in a modern 21st century economy, and in a country that urgently needs to lift productivity and efficiency."

40 Commissioners, in the course of this inquiry you will almost certainly hear from some of those who campaigned for December's legislative intervention. You will be told that it is not re-regulation, it is simply fixing up a few things that were not foreseen in 2006. However, the fact is that deregulation in 2006 gave millers the choice to leave the single desk arrangements, so it's inconceivable that the exercise of that choice could have been unforeseen.

45 You'll be told that growers had no choice because they were at the

mercy of a ruthless multinational. We've even heard claims that Wilmar reneged on an alleged 2006 promise by millers to retain QSL as the industry marketer of choice in perpetuity. History shows, though, that both Wilmar and its predecessor, CSR Sugar, have amply supported QSL during the industry transition from a regulated single desk. Both Wilmar and CSR continued to use QSL to market their sugar on a voluntary basis for more than 10 years post deregulation. For the record, Wilmar didn't even invest in Australia until 2010, four years after deregulation, and as it turned out, in the very year that QSL incurred hedging losses of \$105 million, and still Wilmar stayed with QSL until 2014 when it gave three years' notice that it would market its own sugar from 2017.

And anyway, the very point of deregulation and the payment of half a billion dollars' worth of taxpayers' money to the industry was for the transition from a single desk, not to prop it up forever. Commissioner, you may even hear stories of bullying and "my way or the highway" style negotiations. Some of these claims were made under oath to a Queensland parliamentary committee and then found upon investigation by the parliament to be untruthful, resulting in the perpetrators being censured.

You may even hear of xenophobic slurs that have been uttered in the media about Australian growers being treated like serfs under an Asian feudal lord, and at the risk of dignifying such a statement with a response it's worth noting that prior to the re-regulation of the industry Wilmar offered growers three different marketing models on three separate occasions over a number of years asking for their feedback and review. All were rejected outright.

Sadly, political patrons of discontent who benefit from the anxieties of growers have provided a platform for much misinformation. They have told us that their incentive is simple. Sugar mills don't vote, but growers do. I challenge all giving evidence to the Commission to answer one question. Where is the reason for re-regulating the Queensland sugar industry?

We have a national policy agreed by all our governments that says there must be a reason for legislative interference in competition, and no matter which way you look at it, the *Sugar Industry (Real Choice In Marketing) Amendment Act of 2005* cannot possibly pass a test of reason because it purported to address an industry failure that didn't exist in the first place.

It is an unnecessary, unjustified piece of legislation that should be repealed. Protection against abuse of market power is already more than

adequately provided by statutes, competition regulators, and market forces.

5 We suspected from the outset that this legislation was never about addressing concerns about market failure. Rather, it was always about advancing generation-old claims for grower ownership of the raw sugar that mill owners manufacture from cane that they purchase from growers, and about reintroducing a form of quasi-statutory bargaining in cane supply negotiations that was in fact abandoned in 2004.

10 Furthermore, and ironically so, the so-called pro-competitive grower choice amendments to the Act are underpinned by authorisations to sanction conduct that would otherwise be prohibited under competition law. Furthermore, these authorisations were enacted by parliament in the absence of due process under national competition agreements, and against the wishes of the Queensland government.

20 Unfortunately such bad law is a real risk to investor confidence in the industry. Investors will make their judgement of the legislation in a simple process of reason that Clive Hildebrand explained in his 2002 landmark independent assessment of the sugar industry when he said, and again I quote, “Shareholders in proprietary mills have a choice where to invest their capital. Their overwhelming primary interest is in economic returns from their investments which equal or exceed economic returns available from alternate investments. And while grower choice legislation remains law, it will discourage investment and pose a risk to uniform national competition law as well. How much of a risk will only be apparent once a public interest test has been applied and the federal government has sufficient information to decide whether it should allow the authorisations claimed in the Act to stand. Without evidence of public interest, the government in effect mandates bad law.”

30 Commissioners, it must be difficult for people outside the sugar industry to understand why co-dependent monopolies would jeopardise their mutual prosperity and viability by constantly butting heads. We are inclined to think that there is something in the theory that our issues today are the result of certain parties putting self-interest ahead of the interests of the industry and the growers that they purport to serve.

40 An astute Queensland Productivity Commission official observed last year that some grower representatives seem to continually argue commercial issues with reference to trust, respect and power, and we’ve always proceeded in the belief that providing a fair and transparent offering, and by delivering a consistently strong financial result for growers over time, we would earn that respect and from that respect

would grow trust.

5 Unfortunately, legislative intervention has put significant impediments in the way of us performing to the best of our ability in the interests of our industry, and is driving a wedge between us and growers that we depend upon for the viability of our business.

10 Regardless of the rhetoric, you can't legislate for respect and trust. It comes from experience, and you can't legislate investor confidence, it comes from commercial judgment. And you certainly don't engender investor confidence by stripping ownership rights from the manufacturers of product or by forcing investors into commercial arrangements that they would not otherwise choose to enter into.

15 We and our growers have a mutual and vested interest in finding a common ground that will let us grow the industry, compete effectively in global markets, and give both millers and growers confidence that their investments, financial, emotional and physical, are protected and profitable for the long term.

20 In conclusion, we remain optimistic that a mutually beneficial outcome that builds trust and respect can still be achieved under a deregulated industry model, if the ill-conceived and poorly-implemented amendments to the Sugar Industry Act are repealed. Thank you.

25 **MR LINDWALL:** Thank you. Do you want to start off, Ken?

30 **MR BAXTER:** I've got to say, and I suppose it's almost a declaration of interest, in that I'm not totally surprised at the reactions you've received. In the late 1980s and early 1990s I was asked by the then Queensland government to chair the committee that was to bring about the merge of several mills in the Mackay area and in the Pioneer area, and at the stage that CSR was vacating - it was the Victoria mill, if my memory serves me correctly.

35 I've had a lot of dealings in the primary industry sector. It's the only sector in which I've had to divide not only growers from millers, but different groups of growers, and I've got to say that over a period of about three to four months I spent more time going in and out of meeting rooms in Mackay trying to get a reasoned agreement, and I think the only factor
40 that really gave me any strength was the fact I had - with my I had an official from the Commonwealth Department of Primary Industry in which he had a cheque for \$14 million which was to be paid to fix up the tramways that came down from the Pioneer Mill into the Mackay mills.

45

5 I'm going to be interested to get the rationale from the Queensland cane growers as to the marketing arrangements and the way they see the current arrangement with Wilmar, and I think there's one other company involved, as different from what happened when basically there was a monopoly sale and the growers had very little or no say at all.

10 The question I've got to you is what's the impact on the international market first of all of the campaign that's being conducted largely in Europe against sugar in a whole lot of products that are going around the world? Secondly, does the production of sugar beet continue to act as an alternative to the output of cane sugar? And thirdly, is one of the difficulties and impediments to expansion of the sugar industry the cost of transport for Australia?

15 And at the same time I was involved with the negotiations in the Mackay region, and I think there are enough people around this room who are old enough to remember when the Japanese government boycotted imports of Australian sugar and CSR, then acting as the sole marketer, had about five shiploads of sugar sitting in Yokohama Bay and not able to be delivered. So those are the three questions I've got to you.

MR RUTHERFORD: Sure, okay. I might just take them in order, if that's okay.

25 **MR BAXTER:** Yes, that's fine.

30 **MR RUTHERFORD:** Firstly, in terms of the global market, and I think your question referred to anti-sugar sentiment and whether it was affecting our opportunities for exports, I think thankfully the answer to that question is no, it's not, and the reason for that is that the anti-sugar sentiment is largely an issue in developed economies such as the US and Australia where issues like obesity and diabetes are becoming quite prevalent.

35 Whereas the growth in the global sugar trade is largely being driven by growth in per capita sugar consumption in developing countries, in countries where the sugar consumption per capita is - you know, is a fraction of what it might be in Australia and the US, and I'm talking about countries like Korea, like - sorry, not Korea, that was a mistake, sorry. Like Indonesia, you know, and those sorts of countries.

40 So in that sense, we're still seeing growth in global sugar demand, because until those countries increase their sugar consumption to even modest levels, you know, it's not going to be an issue, and certainly health related issues would not be apparent in those economies for a long, long

time.

5 And so it's just a natural part of them developing, more processed foods, and we're talking about very small consumptions per capita in those markets with very large populations. So I don't see any issues for the - - -

MR BAXTER: And competition from beet sugar?

10 **MR RUTHERFORD:** Yes, well, I mean, as you know, there was significant reform of the European beet industry a number of years ago, and it was the subject of a number of trade disputes as well. As a result of that, we have seen a wholesale change in the landscape of beet production across Europe, and it has now rationalised back to the most cost-efficient
15 beet production centres in France and Germany.

As a consequence, that beet industry is now quite competitive with cane sugar, and also there's a lot of unused refinery capacity, so they're playing a marginal sort of expansion game as well. So it's quite
20 interesting as a result of the, I think, quite successful sanctions that were placed on Europe by cane producers like South Africa, Thailand, Brazil, the European beet industry has in fact become very, very competitive, and is now quite a significant competitor globally with those other cane producers.

25 **MR BAXTER:** Okay.

MR RUTHERFORD: I think your third question related to the cost of transport being an impediment to global competitiveness. You know, we
30 don't really see that, because the global sugar market is really dominated by Brazil, and Brazil is a long way from the markets that we serve, and we still enjoy a freight differential, a freight benefit between Australia and those East Asian markets compared to Brazil, and that obviously gives rise to the so-called Far East premium.

35 Freight rates go up and down. Obviously with the downturn in iron ore and coal and oil we have seen a reduction in freight rates as well. That tends to erode that premium. And while Brazil, you know, often ships in very large quantities, a number of our markets such as Japan that you
40 mentioned don't have the ability to take large vessels, and as you know, Brazil has significant constraints in terms of its export supply chain, large amounts of sugar, relatively low port capacity, and significant congestion in rail and shipping.

45 So we're not really seeing the cost of transport as a major impediment

to us. In fact, you know, really the market is there for the taking for us. Our issue are, one, about increasing our domestic productivity so that we can be cost effective and sustainable at global sugar prices.

5 **MR LINDWALL:** Could I ask a couple of your examples here, where
you produce - your eight mills produce 60 per cent of raw sugar exports
between 97.8 pol and 98.9 pol, and it looks like you desire to move it up
to very high polarization of around about 99.3, if I'm not mistaken, from
understanding that? Perhaps you could explain what benefit that would
10 have, and how would you achieve such a higher level of sugar
concentration?

15 **MR RUTHERFORD:** Yes, yes. Well, as I mentioned earlier, our major
competitor in the global market is Brazil, and by - I guess it's just a fact of
their production process, they do produce standardly a brand of sugar
called VHP, very high polarization. And I mean, out of interest, it's
because they typically co-produce ethanol and sugar from juice, and what
that means is that they basically take a first strike sugar out of the
mesquite and make sure, and the rest of the molasses, which still contains
20 sugar that we would normally crystallise, goes straight to ethanol, whereas
we don't do that. We exhaust all the sugar until we produce a final
molasses. So in effect, they're sort of taking the cream out of the - - -

25 **MR LINDWALL:** Bit like first crest olives or something?

30 **MR RUTHERFORD:** Exactly, exactly. So their sugar is high quality.
Now, because they dominate the market we're typically coming up against
Brazil, and people are saying, "Well, Brazil are offering standardly, you
know, VPH, and Queensland sugar is typically Brand 1, which is a
slightly lower pol."

35 So you know, for refiners, pol can be important. Now, you pay a little
bit more for higher pol, but it does reduce processing time in refineries, so
depending on how refineries are set up, you know, they would prefer to
perhaps have, you know, VHP, or perhaps Brand 1, but because the sheer
volume of Brazilian sugar in the market it's a bit like, well, you know, you
constantly run up against suppliers that are used to getting Brazilian sugar,
and if we want access to those markets then it would require a processing
change in their refineries, so they would rather we produce the same
40 quality as the dominant supplier.

45 So fundamentally that's what it's about. For us to make a VHP sugar
in our factories, we basically would need to do things like spend more
time, you know, washing the sugar, purifying the sugar, so really it's a
rate-related issue. There's no problem with us doing that, but we have to,

5 you know, crystallise more slowly, spend more time, you know, washing. So in order for us to maintain our crushing rate we would need to invest capital to ensure that our process can produce the high purity sugar so that there's a significant investment required for us to do that, and unfortunately since the legislation, that's an investment that's going to be very, very difficult to justify.

10 **MR LINDWALL:** And what type of price premium do you get from VHP sugar?

15 **MR RUTHERFORD:** There's a standard sliding scale of pol premium adjustments that are written down, it's called the International Pol Scale, in the Sugar Association of London Rules. The futures contract is all sold versus 96 pol, and there's a sliding scale of adjustments that are basically increase the price by a percentage.

20 So typically it would be - you know, going from the Brand 1 that we make to VHP, it's a small percentage increase, but small percentage on fairly big numbers across volumes.

MR LINDWALL: Over a long period of time, yes.

MR RUTHERFORD: That's right.

25 **MR LINDWALL:** And your other investment example you gave was for a \$75 million 500,000 tonne sugar storage facility.

MR RUTHERFORD: Yes.

30 **MR LINDWALL:** Now, if I'm not - my understanding, and I'm not an expert in sugar at all, is that sugar has a fairly long life when it's refine, but - when it's in a cane form of course it has a fairly short life.

MR RUTHERFORD: Yes.

35 **MR LINDWALL:** What type of benefit would there be from having the storage facility of that type of magnitude?

40 **MR RUTHERFORD:** Yes. Well, as I said earlier, sugar is a globally traded commodity. It's traded against the global futures contract, which is called the IS number 11 contract. That contract has four contract positions: July, October, March and May.

45 Now, we produce sugar from June to November, and typically we sell sugar against all of those contracts, July, October, March and May. But in

order to sell sugar against the March and May contracts, which happen, you know, several months after a crush finishes, we have to be able to store the sugar.

5 Now, typically, just due to global supply and demand, there is a significant premium or a spread benefit between the March and May contracts, which happen in the following year, and the July and October contracts, and that spread ranges, but it can be as high as, you know, \$30, \$40 a tonne, you know, and it's been very high in recent years as well.

10 So in order to capture that higher sugar price, you need the ability to store sugar so that you can then sell it against March and May and deliver it against those futures contracts. In Queensland we are fortunate. We have probably the best sugar storage in the world. We can store
15 approximately 50 per cent of our crop, but still half our crop must be shipped out during the season, so we're unable to sell half of our crop against the March and May contracts.

20 So this business case was fundamentally built on the premise that marketing our own sugar, 100 per cent of our own sugar, we were secure about the marketing volumes that we would have. We were therefore able to justify building a capital investment, and whether that investment might have been funded by the current terminal operator or as a joint venture with our growers or solely by ourselves, there was enough money in the
25 premium in selling against March and May to basically pay off the capital, make a return for the storage and handling investors, and also return residual premium back to ourselves and our growers.

30 Unfortunately now we don't have any certainty about the volume of sugar that we're going to have to market, and we're unable to proceed with that investment because obviously it's difficult enough getting capital infrastructure up in Australia, and that's why we had to move to a 500,000 tonne storage, because we needed to get the economies of scale in order to reduce the stored cost per tonne.

35 And that storage would have enabled us to store roughly 100 per cent of our production in the Burdekin region.

40 **MR LINDWALL:** So just to be absolutely clear on this, you're saying that if there had not been a *Sugar Industry (Real Choice in Marketing) Amendment Act 2015* in existence, Wilmar would have made an investment, and that would have benefited both Wilmar as well as growers?

45 **MR RUTHERFORD:** Obviously that investment would have been

subject to board approval - - -

MR LINDWALL: Yes.

5 **MR RUTHERFORD:** - - - but we were working to an internal
timeframe of having that investment commissioned for the 2018 season.
We did do a preliminary feasibility assessment. We did get quotes from
manufacturers, and we obviously go through a staged process of
development, and we'd spent money already, and it looked very viable.

10

So we would have absolutely continued to proceed to spend the funds
to develop that investment opportunity to the point where it was, you
know, at a bankable stage, if you like, and we would put it up for board
approval - - -

15

MR LINDWALL: And that would have benefited farmers?

20 **MR RUTHERFORD:** Absolutely. There was enough money in it to pay
a return for the investors in the storage, which could have actually been
our farmers. We would have been happy for them to participate as joint
venture participants, or in fact they could have owned the facility, and yet
still returned residual premiums over and above what we would have got
without the storage, so even to growers that didn't participate in the
storage as a storage investor.

25

MR LINDWALL: I'd like to ask, does this act - has it effectively
expropriated some of your assets?

30 **MR RUTHERFORD:** Well, we say it's expropriated some property
rights in our sugar, and to the extent that sugar is an asset of ours, then
yes, it has. Now, you know, this is a bit of a subtle point. We retain
ownership of the raw sugar that we manufacture, and the Act
acknowledges and recognises that, but yet the Act requires that we sell the
product that we own to a third party that is nominated by our growers.

35

40 So we say that the property rights that would normally be enjoyed by
someone who owns an asset, that is, the right to deal freely with that asset
and buy or sell that asset, has been removed. You know, so it's a bit of a
moot point, but we say that we've had an expropriation of our property
rights, and a significant part of our property rights, and over a significant
proportion of the finished product that we manufacture, roughly two
thirds.

45 **MR LINDWALL:** And if, hypothetically, the constitution, or the section
in the Australian Constitution, section 46 if I'm not mistaken, the fair

compensation for the seizure of property rights in the Commonwealth Constitution, if that existed in the Queensland Constitution you would have received compensation, presumably?

5 **MR RUTHERFORD:** Correct, correct.

MR LINDWALL: But did you receive compensation?

10 **MR RUTHERFORD:** No, we haven't received compensation. Obviously this is something that the Queensland government didn't support. You know, it's also probably - you're aware that this effective expropriation of property or property right is also in contravention of international free trade agreements between Australia and Singapore, Australia and Thailand, Australia and China, to the extent that it's signed.

15 So you're absolutely right. You know, had this been a federal government initiative we would have been entitled to compensation. And we've estimated the opportunity cost of this, and it's very hard to estimate that, I can tell you how much we're spending in legal fees and lost management time at the moment, but conservatively, we think that the net present value of the impact of this to ourselves and our growers is of the order of \$660 million, about \$46 million a year, of which about \$10 million is value that we will lose, and sadly about \$36 million a year that our growers will lose, and that's largely a result of the fact that we are now deprived of the opportunity to deal with 100 per cent of our sugar in the marketplace.

20 So our growers are deprived of the opportunity to benefit from the higher premiums that we can achieve, and we have a track record of achieving higher premiums. They have lost the benefit of being able to gain from the volume effect of our international trading business dealing with a larger volume of sugar that gives us more clout in order to negotiate better freight deals, for example.

25 So you know, it's a significant cost impact, opportunity cost impact, to ourselves and our growers.

30 **MR LINDWALL:** And this is why your testimony is you have a much lower incentive and in fact you have reduced your investment going forward?

35 **MR RUTHERFORD:** That's right. There are opportunities that we could take in a deregulated industry to make higher quality sugar, to invest in more storage capacity to take advantage of premiums. You know, these are opportunities, or investing by-product opportunities such as co-

generation, or you know, second generation ethanol production.

5 But there is absolutely zero incentive to do so at the moment, and in some cases the Act actually physically prevents us from doing that, because of the nature of the requirements under the Act. The Act also has introduced pre-contract arbitration, which means that if millers are growers are seeking to negotiate a supply agreement and we can't come to terms we can find ourselves having to buy cane on certain terms that are determined by a third party.

10 Already we have one collective who has put a claim on us for two thirds of our co-generation profit and our profit from sale of molasses. So these are significant revenue streams for our business, revenue streams that we have made the investment, so why would an investor make a further investment at the risk of having the profits from those investments removed at the hands of a third party arbitration proceedings?

20 **MR LINDWALL:** And Wilmar, like any company, international company, has limited resources for investment purposes, and if it's not investing in Australian presumably you would use that investment somewhere else for the benefit of another country?

25 **MR RUTHERFORD:** That's exactly right. I mean, it's already difficult enough, as you know, to develop infrastructure in Australia, but Wilmar has investments in a range of countries. We've got manufacturing facilities in India, in Myanmar, in Brazil. Just in sugar alone in Indonesia. You know, we're looking at other opportunities globally. We have projects we're looking at in the Middle East, you know, in Asia as well.

30 So yes, we now have plenty of opportunities. It's very clear where you direct your attention, and as an executive of the Australian business it's very disappointing because we see the focus change from our marketplace to other marketplaces.

35 **MR BAXTER:** Can I just follow on on that question? Page 9 of your submission, you refer to the four mills that you've got (indistinct) sugar mills in order to maximise the sugar quality have got to be kept in reasonably high operating order. You may regard this is as a confidential question, but what's your estimated capital spend over the next five years to keep those mills in top scale, operating order?

40 **MR RUTHERFORD:** Yes, well, I said earlier that we've spent almost \$1 billion since 2010, and I'm happy to tell you we spend roughly \$150 million a year on maintenance and capital, maintenance and seed capital, and they're a little bit indistinguishable given the nature of our equipment.

5 So we routinely spend \$150 million a year before we decide to spend any what I would call development capital. So this is just keeping the business going. I mean, you know, the funds employed in our milling business is of the order of \$1 billion. The replacement value is something like \$3 billion. You know, it is a struggle for the entire milling sector to continue to keep these assets, because I can tell you that we could not afford to rebuild them again.

10 So it's a - you know, we have to make this the proverbial grandfather's axe and keep them working with new heads and new handles for the next, you know, 50 years.

15 **MR BAXTER:** Now, just clarify, do you own or control any of the tramways or transport connections from growers to the mills?

20 **MR RUTHERFORD:** Yes. So the cane railway system that serves the Wilmar mills is wholly owned by Wilmar. We purchased those cane railways off the state government many years ago. So we have something like 1,500 kilometres of railways. There's an awful lot of bridges and culverts. It also is an incredibly expensive piece of equipment to maintain. We maintain it at our cost, and obviously we pay for transportation of cane to the mill. That is a cost of ours that we absorb.

25 **MR BAXTER:** Okay.

MR LINDWALL: Do you have any - - -

30 **MR BAXTER:** No, that's all.

MR LINDWALL: Well, thank you very much for your testimony today, and I think it's time for a morning tea.

35 **MR RUTHERFORD:** Okay, pleasure, thank you.

MR LINDWALL: If there's something around, we may as well all go and enjoy something, and then we'll proceed at 10.15 with the Australian Cane Farmers Association.

40

ADJOURNED [9.53 am]

45 **RESUMED** [10.13 am]

MR LINDWALL: Please state your name and organisation and give us - - -

5

MR MURDAY: My name is Don Murday, I'm chairman of the Australian CaneFarmers Association. I'm a farmer in Mossman, fourth generation cane farmer in Mossman, and also a horticulturalist. I've served on the board of Mossman Central Mill for 12 years until the Mossman Mill's sale to Mackay Sugar Limited, so I have a lot of experience in the industry. I wasn't really intending to talk to our submission but rather answer questions but I will probably do a smaller introduction and maybe just to talk about the industry pre deregulation and what's happened since.

15

As you all would be aware, the industry was regulated, all the sugar was sold through Queensland Sugar Limited (QSL). We had a very efficient, and still do, have an extremely efficient storage and handling facility. And it could be argued we also had an efficient transparent marketing system. But then deregulation occurred. Our organisation wasn't happy with a lot of what went on at that time. So we were actually - weren't in the room with a lot of what happened. But it was agreed by the growers and the millers at that stage that they would continue with the voluntary marketing arrangements which would mean that they would continue with marketing through QSL.

20

Since then the ownership amongst 60 per cent of the industry has changed and a couple of milling companies elected to exit QSL. And very little negotiation - sorry, before that what they did is they exited the QSL to market their own economic interest sugar. And that was done without much consultation with the growers. But we're in the process of accepting that and all of a sudden another proposal was thrown on the table that they were going to exit all their sugar and that growers no longer would have any say in what's happened for over a hundred years and how their economic share of the sugar is priced or marketed. Now this came as a huge shock to the industry. For once it has 100 per cent united the growing sectors of the industry, every grower and organisation in the industry is 100 per cent united on this, on the position that we took. We meet regularly and we also work very well together.

25

30

35

I get very frustrated with the term that millers continually use about reregulation. It clearly is not reregulation. We are not going back to the pre deregulation situation. We are simply, what the legislation, the reregulation, simply does is address market imbalance, or the monopoly situation that farmers find themselves in, it addresses that situation and

40

allows growers choice of their marketer. It must be remembered that it's all very well for millers to state that their investment in the industry but the growers had two thirds of the total investment in this industry and that's why we end up - that's how we end up with this two thirds, one
5 third split in the revenue that's received from the sale of the sugar.

So it's not just millers who invest in sugar. So it's very short sighted of milling companies to think that this is not going to have an impact on their supply of sugar cane. And I can't believe that milling companies
10 would impose these things on their growers without considering the financial impact, because I can assure you growers are not going to take this sitting down. And the growers are looking for other things to grow to diversify their income because unfortunately in the Australian sugar industry we would be the least diversified sugar industry in the world.

And milling companies for years for some reason, and I think it's because of our proximity to Asia, which is the deficit region of the world in sugar, and the new owners that have come in to the industry see an opportunity to - or saw an opportunity to get their hands on the Australian
20 physical sugar and export it into that region. And it doesn't help the growers that we supply undiversified sugar mills in this country. There's a small amount of ethanol produced but that's - and there's a limited amount of cogen that's happening as well. But only in Mackay do the growers actually get any benefit from that cogen revenue.

I also get annoyed at this continual reference to the government money that was given to the industry to compensate for deregulation. I don't believe that was the case at all. That money was given to the industry to diversify and to be able to deliver what was forecast at those
30 times to be a price of \$270 a tonne. I would very much welcome an inquiry into how that money was given out and what it was actually spent on because I know it built bridges across the South Johnstone River and built tram lines to what is now Forrest Street. It was a completely wasted exercise, we saw not one - we saw very little diversification from it, and here growers still find themselves as basically supplying sugar cane to
35 mills who supply raw sugar, basic raw sugar.

So we got support from the LNP and the Katter Government to protect the growers from the situation that we found ourselves in. I was
40 heavily involved in all the negotiations, as I said, you know, discussing how to allow the millers to market their Mill Economic Interest (MEI) sugar and then through the mediation that went on after that on different models on how to accommodate all the extra marketers within the system. But all those models I found to be totally un-commercial, you know, allocating a certain tonnage for QSL to maintain is just not commercial.
45

5 I believe what we have today with a competitive marketing
arrangement should be - is perfect. A grower has a choice to market with
his miller, or with QSL, or anybody else. And if the millers are as good as
they claim they are I can't understand why they're so frightened of
10 competition. If they're so good at marketing sugar they would get all their
growers sugar after a period of time. But clearly the growers don't trust
the millers to be the only marketer of their sugar and we need
transparency and we also need a benchmark. And that's why growers
15 have so much faith and have so much desire to have an industry marketer.
And there's strong support out there for QSL.

20 But after the, as I said, the legislation passed, the next day in the news
there was all sorts of - you know, the sky was going to fall in. And one of
the worst was, CEO of Maryborough Sugar, he said that the sky was going
to fall in. But to his credit, they got on, they've negotiated with QSL an
on-supply agreement and that's going to be signed within a matter of
weeks. And everything will continue on because basically the legislation
was designed on what Maryborough Sugar were already doing.
25 Maryborough Sugar had a system where they marketed some of their
growers' sugar, the growers who chose to go with them, and the rest of the
growers who chose to stay with QSL stayed with QSL. So the legislation
did not impact on them one little bit. And I don't see what the impacts are
on any other milling company doing the same thing.

30 You know, there was all sorts of threats made at the time the sky was
going to fall in. And I know that Maryborough Sugar at the time said that
they cancelled an investment, which turned out to be a real estate
investment rather than an investment in milling infrastructure, but since
the election passed that investment has continued on anyway. So it was
just a threat. So I don't take seriously all the threats of investment, and I
hope that the politicians don't either. So that's - I'm very happy to take
any questions.

35 **MR LINDWALL:** Well I was just going to ask you a question about I
find it hard to comprehend how an act of parliament, which is by
definition a regulation, isn't reregulation. I mean, isn't that sophistry, to
argue that it's not reregulation? It's a law of the land.

40 **MR MURDAY:** Yes, a reregulation, I would term going back to what it
was before. And this is not, this is regulating a competitive marketing
environment for the sugar industry in Queensland.

45 **MR LINDWALL:** But it is reregulation but not reregulation to the status
quo ante previously.

MR MURDAY: No.

MR LINDWALL: But it is regulation which - - -

5

MR MURDAY: But I think by the term reregulation they like to refer to it as going back to the past.

MR LINDWALL: Right, yes.

10

MR MURDAY: And there's no way we've gone back to the past at all. We've conceded a lot in allowing millers to market - giving millers the opportunity to market growers' cane - sugar.

15

MR BAXTER: Don, the industry is a fairly unique and unusual one in the structure of Australian agriculture. I think it might be helpful if you could take us through from where the industry was, say, in the late 1980s, 1990s, in which there was very strong regulation. And I mean, I passed the comment too that you flew up to Mackay or Cairns in the first class cabin and the Ansett flight was filled with QCs acting for growers who were trying to get the best deal for their cane assignments. Now that went as a result of a lot of changes, I think, in the 1990s?

20

MR MURDAY: Late '90s, yes.

25

MR BAXTER: The 1990s, and then after that the industry went through some both compulsory and almost automatic readjustment where mills that needed very substantial expenditure on them to maintain operation either went out or merged with other mills. I think it would help us to have an understanding of the sort of progression of that and the definition which in some minds is regulation of a type that's existed in some other industries as against what your perception of the regulatory regime is?

30

MR MURDAY: Well I guess probably the biggest change was getting rid of assignments. We also had two classes of - we had, what's the term, we're going back so far now, you know the two pools that we had to supply cane, you know, if you were a late grower and you came in later on you were a - because the industry paid for the development and construction of the sugar terminals any growers who came in later they were classed separately and they had a different payment structure. But that all went, assignments were lost. It's fair to say at that time growers - if you bought a cane farm you were buying assignment.

35

40

MR BAXTER: Yes.

45

MR MURDAY: And there was absolutely no compensation for that. I notice the dairy industry and other industries got compensated when they were deregulated but there wasn't a cent in compensation for the loss of assignment. But that definitely was probably seen as a hindrance on
5 growing the industry. But we haven't seen a lot of growth in the industry since the deregulation, which some components claim that it was there, it clearly isn't there. We've actually seen the closure of a lot of mills. A lot of that is rationalisation. And a lot of that I think has just been a response to falling production and productivity that the mills' answer is just to shut
10 another mill. And that's happened all the way up and down the coast - - -

MR BAXTER: Sorry, to interrupt, but were some of those mills basically relatively small mills reliant on, say, narrow valleys of cane production and the extreme end of a tram line, or of a railway network, or
15 road network?

MR MURDAY: I think it's probably more throughput that determines the future of the sugar mill. And naturally, you know, the mill in the early days probably survived on eight or nine hundred thousand tonnes, where
20 today you wouldn't survive under a 1.2 million tonnes. And that's the difference. And a lot of our mills are two million plus. And what happened in Mackay Mill, they closed mills there and they've got three two million tonne mills now. That's just this rationalisation, I believe. But there were other mills that closed, you've got urban encroachment in
25 certain areas, you know, south of Cairns, which closed the mill. And there's only been the one new sugar mill built in Queensland for a hundred years, and that's on the Tablelands.

MR BAXTER: Yes.
30

MR LINDWALL: Do you see millers, I'm trying to understand it, millers as effectively a contractor? So, if you look at another industry such as iron ore and steel, iron ore producers dig up the iron ore and they
35 sell the iron ore to a steel manufacturer who then owns the iron ore and then the steel manufacturer makes steel out of the iron ore and then sells the steel, so it goes in that type of stage. But I get the impression that you're saying that the growers continue to have ownership over the sugar even though it's gone to the refinery, doesn't that mean that the refinery is then a contractor rather than buying the sugar from you, is that what
40 you're saying?

MR MURDAY: No, they buy sugar cane from us, convert it into sugar, deliver the sugar to the terminals, and then there's the revenue from that sugar is divided, on the final prices achieved for that sugar, is divided
45 roughly two thirds, one third, depending on your local agreement, is

divided at that time.

MR LINDWALL: But the property rights for the sugar cane once it goes to the miller lies with the miller, doesn't it?

5

MR MURDAY: Yes, and then when the miller, historically then when the miller delivered the sugar to the terminal that the title then reverted to QSL, or Queensland Sugar, whoever it was at the time, so they had title of the sugar so they could borrow money to fund the advances program. See, we don't get a - cane farmers don't get a farmgate price for sugar cane so we take the risk right through until the sugar is sold. And when a cane farmer plants his cane he's not paid for that, for the cane that comes off that for two years.

10

MR BAXTER: So, the farmer - - -

MR MURDAY: So he wears the risks all the way through the process.

MR BAXTER: Sorry to interrupt, but if you compare it with the wheat industry when a wheat farmer delivers his grain to a silo he gets a chit from the Australian Wheat Marketing or the Australian Wheat Board which basically gives him a provides either the funding or the basis for going to a bank and getting the funding, and the property transfers from the grower to basically - well, it's the success of the Australian Wheat Board, and it's a now listed public company. For those growers that have got shareholdings in it they then get a dividend at the end of the year or if they don't do the job, or if the Australian Wheat Board doesn't do the job, they don't get any dividend at all. Where does the sugar industry structure differ from, say, another bulk commodity structure like the wheat industry?

20

MR MURDAY: Because of the way historically we've always shared in the total revenue that's achieved from that pile of sugar. And it's shared on a specific formula all the way through. And I think it all resulted from a Royal Commission in 1914, or whenever it was, which identified the market imbalance back then where 85 per cent of the growers in the Queensland - roughly 85 per cent of the growers in the Queensland industry can only supply one sugar mill, or one sugar milling company. Sugar is a perishable low value product which basically can't be transported much more than 80 kilometres.

25

So a grower is forced to supply that mill. And it's a lot of the reason to overcome that potential market imbalance there that we've had this system of sharing the value of the sugar. Now there's all sorts of arguments you can get into about who owns title and when did title

30

change and deregulation handed title back to the mills, it's irrelevant to me because it's only really as important as the next negotiations you have. And who knows where that's going to go because I know there are some groups in industry that want to do a toll crushing arrangement, they want
5 to retain ownership all the way through, but it doesn't get a very good reaction from the mills, naturally.

MR LINDWALL: You could do that, sure.

10 **MR MURDAY:** Absolutely we could.

MR LINDWALL: I mean, property rights are much more important than I think you suggest because the person who has the property rights should have the right to have the disposition of the product that they've bought,
15 and it's mostly in society that's the case. And also they bear the risk for it. So who bears the risk, you've now grown some sugar, you sell it to a - - -

20 **MR MURDAY:** No, you produce sugar. You grow sugar cane.

MR LINDWALL: When it's sugar cane, yes. You grow sugar cane and you sell it to a miller, and let's say the sugar cane is destroyed by an accident or something, who bears the cost of that?

25 **MR MURDAY:** Well where has the accident occurred?

MR LINDWALL: It's occurred after you've sold it to the miller?

30 **MR MURDAY:** Well we don't sell it to the miller, we don't get - we don't sell it to the miller till 12 months later when we get our final payment. It's delivered, the sugar is delivered to a tram line, it's not actually a sale, it's not a sale.

35 **MR LINDWALL:** So you would take the hit then, so if it was at the sugar cane was at the miller's property and it was destroyed by some factor, accident, whatever, then you would bear the cost as much as the miller?

40 **MR MURDAY:** No, the miller would because - - -

MR BAXTER: Well then the miller is taking responsibility so you would be - - -

45 **MR LINDWALL:** You have the property rights, haven't you, because if you had property rights still you would also bear the consequence of that

accident? If I owned a motorcycle and I share it with you then if I accidentally did damage it we'd both have a consequence of an economic loss to it. If you buy the motorcycle from me and you destroy it, I don't bear any risk any more, isn't that the case?

5

MR MURDAY: Well for that stage of it, yes. But then the sugar then is marketed the title changes back again to that marketer. The grower economic interest in that sugar was, that percentage, was then the title was transferred to the marketer which was in those days QSL.

10

MR LINDWALL: But haven't you now by the introduction of this law actually expropriated an asset which is a sovereign risk which is most countries would not see as a positive because it does impact, and the economic evidence on this around the world is very strong, Zimbabwe is an example, where expropriation of assets occurred and looks what happened to Zimbabwe?

15

MR MURDAY: Well I'm not a lawyer but in all our negotiations we just consider it a continuation of business, the way things have always been done. And we don't believe that it was fair that the growers can be forced in a monopolistic situation to accept a marketing system imposed by their miller where they don't have a choice, they have absolutely no control whatsoever over the price that they are going to achieve for their sugar cane.

20

25

MR LINDWALL: So why don't growers vertically integrate and make their own milling companies or buy out millers? They can do that, there's no law against that.

30

MR MURDAY: Yes, there's no law against that.

MR LINDWALL: And that would then align the economic incentives, wouldn't it?

35

MR MURDAY: Well, I'd say that the industry - it wasn't that long ago that the industry was a lot more industry owned, grower owned. There was less proprietary milling. But the proprietary milling is by far the biggest now, I think there's only two grower owned milling companies left in Australia. I just think that's a symptom of the times, it's happened in I think all our agricultural industries, that we no longer, unfortunately, do the processing. But it doesn't mean that we don't have right.

40

MR LINDWALL: Who are the two grower - - -

45

MR MURDAY: Isis, Isis and Mackay Sugar Limited.

MR LINDWALL: Right.

MR MURDAY: Isis is in Childers.

5

MR LINDWALL: May I ask, I mean - - -

MR MURDAY: And the New South Wales industry, sorry.

10

MR LINDWALL: Which is owned by Don, Mr - - -

MR MURDAY: No, no, he owns 50 per cent, I think. It's still 50 per cent owned by the growers.

15

MR LINDWALL: I mean, Wilmar in their testimony earlier today said that because of this Act they are not investing in new storage facilities which would have obtained a higher price for growers and that they can't upgrade to a very high POL sugar which also would command a higher price, isn't it you're shooting yourselves in the foot here?

20

MR MURDAY: No, absolutely not. That's a very interesting subject that Mr Rutherford raised there. I will make some inquiries as no one in the industry knew anything about that, where that terminal was going to be positioned. And even with Shayne's response there this morning, it was only very, very early stages, I would say it's used more as a threat than anything. He also highlighted the fact that we do have extremely efficient storage and handling facilities in Australia where we can store up to 50 per cent of our crop, which is probably more than anybody else in the world. It would be subject to a cost benefit analysis exactly what value there was in more terminal storage.

25

30

But they probably find themselves in a situation where they have less storage capacity now than they had before because of their own actions. Before they decided to go their own way all the sugar was stored and marketed and managed across all the terminals in Queensland. So in an area like in Cairns which had smaller terminals that could be filled up and that sugar for use to be sold at a later date. But now they may, I'm not sure exactly of the figures, and particularly the mills that supply that out are really only going to find themselves in a difficult situation because that terminal has turned over five or seven times. They're going to find themselves in a difficult situation now that all our storage and handling is potentially going to be busted up. And that's all adding cost to the industry.

35

40

45

So it's all very well for millers to talk about the potential to increase

revenue, I don't see any great potential to increase revenue because sugar marketing, it doesn't matter who does it, are all going to be fairly competitive. But there's going to be definitely added cost in our storage and handling by the way of the fact that the sugar terminal's function is being split up. The potential for segregated sugar, which reduces capacity, and depending on who ends up running the terminals, if it changes from a cost centre to a profit centre there is only going to be added costs.

MR LINDWALL: But you're basically - you think that marketing everything through QSL gives you a premium?

MR MURDAY: I believe it does because it's transparent. And it depends on the profile you want, you know, surely a trader like Wilmar may have a more aggressive marketing philosophy or strategy, which some years could give them more money, other years they could do a lot worse. And I think this year QSL is probably out competing Wilmar. But that's irrelevant on a yearly thing. The grower has confidence in his industry owned body marketing his sugar openly, transparently passing on all the premiums. And it's been done for a hundred years and they want to continue doing it. Others don't. Some might want to go with the miller. But what is wrong with having a competitive marketplace for the marketing of sugar? I think it sounds perfect.

MR BAXTER: Look, I understand that argument. Can I just take it a bit further? As I understand things at the moment, QSL is the dominant seller of Australian sugar overseas, is that correct?

MR MURDAY: At the moment.

MR BAXTER: At the moment.

MR MURDAY: We think for 2016 it will be.

MR BAXTER: Yes.

MR MURDAY: For 2017, who knows where - - -

MR BAXTER: Well as we stand today - - -

MR MURDAY: Absolutely, they are, yes.

MR BAXTER: QSL is the dominant seller?

MR MURDAY: Yes.

45

MR BAXTER: And the other sellers are presumably Wilmar, anybody else? I mean CSR - - -

MR MURDAY: MSF.

5

MR BAXTER: MSF?

MR MURDAY: Yes. And New South Wales - - -

10 **MR BAXTER:** Sorry, roughly what proportion of the sugar, just roughly? Or maybe I can put as a question on notice as an option?

MR MURDAY: Yes, absolutely, I wouldn't have that off the top of my head.

15

MR BAXTER: I'd just like to get some understanding because it is also an indication of where market now sits, how one group may or may not dominate a market.

20 **MR MURDAY:** In answering that question, what I could say, that next year - see we have three milling companies, we call them BIM mills, who are staying with QSL.

MR BAXTER: Right.

25

MR MURDAY: That's Mackay Sugar Limited, Isis and Bundaberg Sugar. If all the sugar, the grower economic interest (GEI) and the mill economic interest (MEI), from those milling companies stays with QSL that's 600,000 tons of sugar, which won't make them the biggest player in the market but it will depend then on how much other grower sugar they get to increase their efficiency, which they're actively chasing. And which growers in every region want the opportunity to be able to market through the QSL.

30

35 **MR BAXTER:** Now what happens, and this is hypothetical, say, for example, in an area where Wilmar has got, or any other miller has got, existing capacity and a grower makes a decision that - - -

MR MURDAY: Do you mean existing capacity to, what?

40

MR BAXTER: To mill.

MR MURDAY: To mill, yes?

45 **MR BAXTER:** Owns a mill. That if a grower decides that he doesn't

want to sell through QSL has he got the right under the current arrangements to go to another miller?

5 **MR MURDAY:** To another miller?

MR BAXTER: Yes.

MR MURDAY: To market?

10 **MR BAXTER:** Well, no. No, let's take it in steps.

MR MURDAY: Yes.

15 **MR BAXTER:** So has he got a right to go to another miller and get it processed and then go and talk to whether it's QSL or to somebody else to sell it?

MR MURDAY: Only 15 per cent of the growers in the state have an opportunity to go to another miller.

20 **MR BAXTER:** Yes?

25 **MR MURDAY:** And we saw that right at the very early days of this when - you know, like two years ago, three years ago - two years ago, when Maryborough Sugar refused their suppliers on the Tablelands to market through QSL. Overnight, and Mackay Sugar Limited (MSL), Maryborough Sugar, walked out of the meeting, the very next day a deal was done with Mackay Sugar to take 600,000 tons of Tableland cane to Mossman. So Mossman went from a 500,000 ton mill to 1.2 million overnight. So where a grower has that ability to do that they will exercise it. And they did. Maryborough Sugar obviously learned their lesson from that and they do offer their growers now the right to market with QSL.

35 **MR BAXTER:** And was the distance from the Tablelands to Mossman, which is a fair hike, I mean, I would have thought there would be a fair loss in cane quality?

40 **MR MURDAY:** Mossman pioneered the industry on the Tablelands in the first instance, along with South Johnstone Mill, and as through that really lean period of low prices Mossman just basically couldn't - the freight arrangements were changed by the industry body mediator and Mossman couldn't afford to bring that cane down any longer and a mill had been built on the Tableland as well.

45 **MR BAXTER:** Right.

5 **MR MURDAY:** And South Johnstone stopped taking cane down as well. But what's happened since is the - it's not a big sugar mill on the Tablelands, it's only got a capacity to crush about six or seven hundred thousand, and there's enough area, water, and commitment on the Tablelands to supply that mill and 600,000 to Mossman. And that's what's happening this year. And both mills are at capacity. So it's been a very good outcome. Because what's happened there is Mackay Sugar couldn't handle that full tonnage, they've done a toll crushing arrangement with Maryborough to toll some of that cane and Mackay retained the ownership of the sugar, retained the sugar and the molasses and the bagasse.

15 **MR BAXTER:** Now going back a step, presumably the cane assignments having gone the only actual property right, I suppose you'd call it, that the grower has got is the land on which he is farming?

20 **MR MURDAY:** Yes, and then in his can supply, but that's not even assigned to a mill anymore.

MR BAXTER: No, that's - - -

25 **MR MURDAY:** He just makes a commitment to supply a certain tonnage of cane in his supply agreement, that's all. It's not actually tied up to land anymore.

30 **MR BAXTER:** No, so he's got a block of land and it's a block of land without any ties or constraints apart from any debt he might have taken on and the bank's got presumably a mortgage over it?

MR MURDAY: Yes.

35 **MR BAXTER:** Whereas before it was the assignment that actually had the value in it?

MR MURDAY: It did have a value, yes.

MR LINDWALL: It had the licences - - -

40 **MR BAXTER:** Well that's what I'm just trying to - - -

MR MURDAY: It did have, but that doesn't mean - - -

45 **MR BAXTER:** No, I know, but this is - so, can I just take you through. Sorry to be boring about this but it's slightly, in my mind at least,

important. So you had the growers who went from, what, late 1980s, 1990s, and they had cane assignments, and the assignment had the value, far more value than the land. The assignment system went so the growers were either compensated or just lost what the value of the assignment was.
5 They still had a contract to - or a commitment to a local mill, and that was being dictated to some degree by the efficacy of either the tramway system or truck transport. Is that a reasonable proposition, so a grower who lost an assignment couldn't turn around then and there and say, well, no, I'm not happy as a supply to, say, the Playstone Mill, I'm going to
10 take it to somewhere else?

MR MURDAY: Well he'd have to go to Proserpine, which is - - -

MR BAXTER: Yes, exactly.
15

MR MURDAY: No, it won't work.

MR BAXTER: So there's then a constraint, a physical constraint, on the flexibility of the grower - - -
20

MR MURDAY: Absolutely.

MR BAXTER: To make a choice as to where he has the sugar cane milled?
25

MR MURDAY: Absolutely, yes.

MR BAXTER: So in that respect there's actually a rigidity in the marketplace?
30

MR MURDAY: Yes.

MR BAXTER: Now let me take it the next step. Let's assume and let's stick with the Mackay one because it's one I know, let's assume that he realises he's got to have it milled in Mackay, under the current arrangements it would either go to the new owner, which in this case I think is Wilmar, or QSL. Now has he got the right at that point in the process to nominate who is going to sell the sugar for him?
35

MR MURDAY: For 2017, if he's a Wilmar supplier, not yet.
40

MR BAXTER: Right.

MR MURDAY: The legislation allows for it but Wilmar have not yet negotiated a non supply agreement with QSL that is satisfactory to allow
45

that to happen.

5 **MR BAXTER:** But if he is sitting at home at the moment contemplating where he might go and he is not happy that he hasn't got something firm in writing or a commitment that Wilmar is going to take it, can he then get in touch with QSL and say I'm submitting x hundred tonnes of cane for processing at x date and when it's processed I want you to actually as QSL to sell it for me?

10 **MR MURDAY:** He can't do it for next year, no. For this year it's already in place but it will be marketed more than likely by QSL. But for next year, and this is the most frustrating part of this process, is we've got really prices out there, now \$540-plus a tonne, and this protracted negotiating process is forcing some growers, or the banks are forcing
15 some of the growers to sign contracts with their miller, which is totally unsatisfactory. But I think it's a tactic of the mills to draw this out because it is incredibly frustrating for growers.

20 The phone calls that I get from my members and the frustration level is just unbelievable. It's a really, really sad situation the growers - and it's so annoying that the millers in every forum say they're joined at the hip with their growers, they clearly aren't, otherwise they'd have a system in place where their suppliers can call a price for the next two or three years and take advantage of these good prices. But it's not happening, except in
25 Mackay, and Maryborough.

MR BAXTER: Now just again a side question, most of the land presumably is freehold title?

30 **MR MURDAY:** The farmers' land?

MR BAXTER: Yes.

MR MURDAY: Yes.

35 **MR BAXTER:** So the banks have got a optimum security?

MR MURDAY: Yes.

40 **MR BAXTER:** And what's the movement been - well, I suppose this is too general but what's the movement been in land prices around mills in areas where the assignments are no longer the point of value?

45 **MR MURDAY:** Well I don't know that it affected land. I don't think it affected - I don't think there's any evidence of it really affecting the value

of cane farms.

MR BAXTER: Either positive or negative?

5 **MR MURDAY:** I wouldn't think so, no. It's probably it was more the people who lost out where those who'd bought a cane farm and paid big money for the assignment and all of a sudden didn't have it.

MR BAXTER: Right.

10

MR MURDAY: So they probably did pay a little bit more. Well then I guess that is implying that he sold it for less, but he probably paid - he over paid instead of what he should have paid, potentially, yes.

15

MR LINDWALL: We should move on to - just a final question about - and totally away from marketing and that, what type of technologies are cane growers now using or thinking of using, including in terms of a high tech monitoring for water usage and so on, or genetic modification even, is that something that's being used on cane farms now?

20

MR MURDAY: Not yet. But our research organisation, which is jointly funded by the growers and the millers, is in a program of developing genetically modified cane. But, you know, they're years away, probably a couple of years away, from that. And then you've got to go through the whole process then of getting approvals and all the rest of it and testing market acceptance in all of that too.

25

MR LINDWALL: Would that you have - are you expecting that that could have environmental benefits and help reduce the pressure from people complaining about runoffs to the barrier reef, for example?

30

MR MURDAY: Yes, in growing, you know, drought tolerant varieties, roundup resistant varieties, yes, definitely there's potential for that.

35

MR LINDWALL: Well thanks very much for appearing today.

MR MURDAY: Okay, thank you.

MR BAXTER: Yes, thanks, Don.

40

MR LINDWALL: We now move to Kevin Norman from the Institute for Agriculture and the Environment. Please say your name and a bit about the organisation and then a brief presentation, please?

45

MR NORMAN: Thanks for that. So my name is Kevin Norman, I'm the

5 executive manager with the Institute for Agriculture and the Environment at the University of Southern Queensland. The University of Southern Queensland is a relatively small regional university. It's based in Toowoomba, is the main campus, we've also got campuses at Ipswich and Springfield on the Brisbane Western Corridor and we've got a small campus and institute of wine and tourism at Stanthorpe. I guess being a small regional university, like many universities, we tend to focus on where's our core strengths and where's our niche.

10 So I guess core strengths for the university have traditionally been in distance education, agriculture, and also around the regions because we are a regional university. And hence we've got institutes around each of those three core strengths. The largest one is the Institute for Agriculture and the Environment. And typically we do applied practical research, so
15 less of the basic research. We certainly work closely with the sugar industry. I was just overhearing some of the comments there and about some of the new technology. We're involved with the development of new technology. For example, machine vision, putting that, for example, in drones. The drone can come down, literally pick a green weed in the
20 green sugar cane crop, and if necessarily blast that chemical out with a spot spray of herbicide, or something like that. So that's some of the sorts of technologies. We've got a - - -

25 **MR LINDWALL:** Does that require a mobile phone coverage or can be independent of - - -

30 **MR NORMAN:** It can be independent of that. Ideally mobile phone coverage in the regions is a really big issue and the applicability and use of those technologies will improve if we get better coverage. Line of sight is an issue specifically around the drones so they don't actually necessarily depend on that but the improvements in the application will improve obviously with better mobile phone coverage and Internet coverage.

35 So I guess I've had a look at some of the submissions to this committee and I don't know necessarily that I've got anything new specifically. Because of the applied practical nature we deal a lot with farmers directly, so we get a lot of feedback around the issues and the regulations. And obviously I've canvassed a number of the growers and
40 industries that we work with and so I've made some of those points in my submission. I do note though that obviously you were originally scheduled to be in Toowoomba and there weren't enough people from Toowoomba to justify.

45 **MR LINDWALL:** Yes.

MR NORMAN: So I've come down.

MR LINDWALL: Thank you.

5

MR NORMAN: So I thought I might kick off by just telling you a bit about our region. We are slightly unique in that there's a lot of development and a lot of activity and sometimes we hear about the doom and gloom but although certainly since the mining downturn we're seeing some of that in our region there's also a lot of optimism. Toowoomba is the second largest inland city after Canberra. We've recently had the construction of a new internationally capable airport. \$500 million of private money, a private family built that airport. It had a 747 land late last year and took a load of export product directly to Hong Kong and to Shanghai. And that's the sort of opportunity that we see for the region. And that investment has been a real game changer for our region.

In addition to that we've got a new highway bypass, the second range crossing, and that was again a cooperation at all levels of government, local council, the state government and federal government putting money in and investment into that. And that project is under way. That will stop all the large trucks and the traffic having to go up the Toowoomba Range. And that bypass will go straight past the front door of the new airport. We're also quite hopeful that we'll get some of the inland rail project and perhaps some of the regulation and bureaucracy that we might be reviewing might help with that project, to streamline that.

And again that project again will go past basically this highway and past the airport. So there's a lot of interest around developing intermodal hubs. So Toowoomba almost without even trying is going to be a major transport and logistics centre. With the confluence of this rail, obviously the new road, and the airport infrastructure, we happen to be sitting in what is now the most productive agricultural area in Australia, having recently overtaken one of our neighbouring regions. And so we're really excited. And there is a lot of optimism around how to encourage exports, how we better take advantage of obviously domestic markets and value add.

But particularly we're focused on export development, particularly obviously into Asia and elsewhere. There's a long history of exports out of the region and we do export all around the world, the Middle East, the Americas, into Europe. I think we're all aware of the opportunities in Asia, so how do we capitalise on that. And so coming back to the regulation, a lot of the feedback that we've had from industries and growers, you know, is clearly around how do we get some of those

barriers just to make things happen.

5 My background, although I've been with the university for two years, I've come more out of the business world. So even within the university, you know, a federal body, I struggle a bit with the bureaucracy and red tape and I'd like to make things happen a lot more. So we're not here to talk about the university but it's just another small example compared to, you know, we've got labour issues, we've got transport issues. And again, I don't think I've got anything new to report. It's really around the harmonisation and getting these things so that they're, I guess, harmonised across the states.

15 Australia has got a real opportunity to punch above its weight. We go to trade missions overseas and we see all the states, each with their own trade setup, and they're all trying to outdo one another. Whereas just down the hallway we've got New Zealand, and brand New Zealand, and they are, you know, definitely punching above their weight and they're out competing us. So it is around, you know, how do we harmonise these things, how do we streamline these things so that we can punch above our weight and be even better than what we're doing and take better - you know, make better of the opportunities that are availing us. So that's a bit of, I guess, overview and background. I'm happy to talk to some of the specific points that I've made.

25 **MR LINDWALL:** Thank you very much. Obviously transport is a key issue in terms of one of our chapters on transport in our draft report did talk about getting permits to move machinery across public roads. The inconsistency across state borders, and various things like that. So you would basically agree with the direction that we posited there, I guess?

30 **MR NORMAN:** Very much so. Again, the campus is based in Toowoomba but we've got projects literally all over Australia. And a lot of our growers are down on the Border Rivers area, so some have literally got properties in Queensland and New South Wales or they might be working as contractors or working with contractors that are crossing the borders. So just being able to transport their harvesting equipment, their farm equipment across those borders and, yes, without going into the detail, just getting some harmonisation. Even to the point of what is the definition of an oversized machinery, you know, that's allowed. Obviously there's different tonnages that are allowed on the trucks between the states and just getting some harmonisation.

45 We all understand regulation is there to assist us and for safety but it's about streamlining those things. In business, I've worked a lot on lean manufacturing and lean management and at the heart of it we always try to

identify wherever there are the bottle necks, including our own policies and regulations in business, and how do we streamline those so that we can, you know, make the business work better.

5 **MR BAXTER:** Can I just follow up on that. You've mentioned the
national heavy vehicle regulator in your paper, Toowoomba sits on very
relatively close to the border with New South Wales, what's the view,
either your view or your observation, about the inconsistencies in things
10 like truck lengths, widths, rights to carry B-doubles and so on, do you
have any view about the effectiveness in NHVR in implementing a
consistent policy? Because we've heard a lot from other states about
difficulties with producers not only getting farm equipment across roads
and having to go to the lengths of putting lights and everything else on,
15 but also what are minute differences in many cases between truck
specifications and very rigorous inspection processes particularly by the
police forces on behalf of the road authorities?

20 **MR NORMAN:** I guess without getting into the specifics, and I've seen
some of those figures and I've got some of them in my submission myself,
if I can answer by way of I was on the scientific and technical committee
for the Australian Food and Grocery Council and I was always, I guess,
both amazed and awed in that committee. We would have fierce
25 multinational competitors in terms of multinational companies that were
working in the food and grocery business and they were getting them
together in a room and looking at the regulations, or looking at the
policies, and having people eyeball one another across the table. I'm
always amazed how much we got done and how we could overcome some
of those things and come up with sensible policies that could work across
30 the jurisdictions.

35 So I guess, as I've said in here, having a review and getting people
around the table, obviously there's a history for some of those specifics
and the specifications and the details, so without going into that, I'm sure
there's a history for those things, but let's sort them out. Let's sit around a
table and review them but have that common goal to how do we
40 harmonise them, because they are holding us back.

MR BAXTER: And there's a lot of inertia in that.

40 **MR NORMAN:** Yes.

MR BAXTER: Now one of the things you've mentioned here is about
data collection and obviously data is collected from a whole variety of
sources and it's not very well coordinated. The Commission is doing a
45 study at the moment in data collection and so forth and also on education,

5 but I take it that you think this type of information is vital to understand what policy directions we should have in the future, and given what's happened with, say, the Census recently, how do we - in terms of harmonising or getting better data collection was more consistent, how do you alleviate concerns about privacy and those types of things?

10 **MR NORMAN:** It's the big issue. And I guess what I've reflected here is more the feedback that we've had directly from growers and their frustration of getting lots of surveys sent out but also I guess speaking to some of the organisations and in some cases the organisations that are doing the surveys, privacy is the thing that always comes up as the issue and, you know, this being able to share the information across government departments. I think at the end of the day often it's the details that aren't private that really can sort out a lot of the issues and in terms of making the decisions and as the information. And obviously government departments and others have got ways of averaging the data so there aren't the specifics drawn out.

20 So I think, you know, and governments can obviously find ways to protect privacy, separating the names from the information. So I guess I'm coming back to, you know, it's more the frustration of growers who are business people who are trying to willingly provide this information but maybe being asked regularly for the same types of information, they said, well, I've given it to one department why can't they share it? You know, they've got my tax file number, they've got all the information, it's just a matter of sharing. And many growers have reflected that they would willingly sign privacy documents to allow the departments to share or particularly that idea around separating the names from the information and then averaging the information as well.

30 **MR LINDWALL:** Yes, government administrative data is very important.

35 **MR NORMAN:** Correct.

MR BAXTER: And can I just pursue that a bit?

MR NORMAN: Sure.

40 **MR BAXTER:** Back to the NHVR, one of the complaints we've - or not complaints, but one of the propositions we've had put to us, particularly by producers in Queensland, New South Wales and Western Australia where the distances are a lot longer to travel, is that one of the real headaches is that a lot of local government roads which are dealt with by councils are not being kept up and therefore producers have either got to

45

use a smaller vehicle or not travel on them at all.

MR NORMAN: Yes.

5 **MR BAXTER:** One of the propositions was put that new technology
would enable trucks to carry tech meters, or whatever they call them, and
for road use charging to be introduced but with the hypothecation of the
revenue received will actually fund the development of local roads. Now
10 Toowoomba and the Darling Downs is crisscrossed with small local
government roads, many of which I suspect you wouldn't get a B-double
down in a hurry.

MR NORMAN: You could try.

15 **MR BAXTER:** Yes, you can try but you might take a few fences with
you. Is there any work being done on road access, road charging, or road
funding of road maintenance in local government roads as against state
based and national roads?

20 **MR NORMAN:** Yes, it's interesting, I'm sorry, I can't answer that
specifically. But certainly our guys are involved in automation, driverless
tractors, driverless vehicles - - -

MR BAXTER: Yes, that's very exciting technology.

25 **MR NORMAN:** We've got all the GPS technology in terms of being
able to track things and so - actually I'm interested in your proposal there,
because being able to do that and to put some funding back into country
roads, that would be - - -

30 **MR BAXTER:** Well we did cover that in our infrastructure inquiry in
quite a lot of depth.

MR NORMAN: Yes.

35 **MR BAXTER:** But there's always - and we did say that fuel excise
should be abolished and replaced with road pricing of some sort. But
there would still have to be a community service obligation for smaller
roads of course.

40 **MR NORMAN:** Certainly one thing, like as I said, in my business roles,
for example, I was based up in North Queensland and we were sending
product directly down to Melbourne, to the port of Melbourne, and it was
always, you know, a real pain in terms of the limitations that you could
45 put on trucks. And often they'd try and get around some of the inspectors

and things like that by having to go across two states. So just getting that harmonisation really.

5 **MR LINDWALL:** Well we probably should - unless you've got any final questions.

MR BAXTER: Only one other question.

10 **MR NORMAN:** Sure.

MR BAXTER: You've made several references to the problems with the labour market, is there a very substantial use of 457 visa workers in the Darling Downs area?

15 **MR NORMAN:** Yes, Darling Downs and Lockyer Valley there is. And labour is a massive issue, particularly for the horticultural industries, and that's one of the areas that we are looking at as the biggest potential for some of these export opportunities. Certainly getting harmonisation around that streamlining around processing of some of the visas, getting
20 some of that paperwork sorted out, and perhaps even sharing that across - because often there will be one farmer employer works closely with their neighbour, you know, being able to share that labour and those opportunities. Penalty rates are of course a really big issue. I guess, you know, some harmonisation around that and just some reflection around
25 how do we make the most of the labour that's available but, you know, recognising that agriculture is often a 24/7 type of occupation. And certainly most employers, most farmers, really want to look after their labour and once they get good labour they do want to look after them and keep them. But it is making us uncompetitive so, you know, what can we
30 do, how can we look at that? And, you know, we've got some ideas around that.

MR BAXTER: All right, well, thank you very much for coming then, Kevin.

35 **MR NORMAN:** Great, thanks for the opportunity.

MR LINDWALL: We are now going to Warren from CaneGrowers. And give me one second and I will be back in just a minute. Right if you
40 could just introduce yourself?

MR SCHEMBRI: My name is Paul Schembri, I'm the chairman of Queensland CaneGrowers and also chairman of the Australian CaneGrowers Council.

45

MR GALLAGHER: Dan Gallagher, I'm the chief executive officer of Queensland CaneGrowers.

MR MALES: Warren Males, head of economics, CaneGrowers.

5

MR LINDWALL: And if you would just like to give a presentation of what you'd like to say to us today, that would be perfect?

10 **MR SCHEMBRI:** Well, thank you. We appear today to speak to our submission in relation to the inquiry into the level of regulation that applies to the Australian agricultural sector. So, Chairman, we have submitted to you a submission and we would be more than willing to respond to any questions relative to that submission. Mr Warren Males on my left here can speak to that submission, but if it's okay, Mr Chairman, I would like to make a few introductory comments, if that is okay?

15

MR LINDWALL: Yes.

20 **MR SCHEMBRI:** Can I firstly say that in response to the overall recommendations of your inquiry we support the majority of those regulations. And in fact can I assert very strongly that your recommendations in terms of the level of regulations that is in application to native vegetation, biodiversity conservation, transport, water, genetically modified crops, agricultural and veterinary chemical regulations certainly has great applicability to our industry and we support that.

25

30 Not surprisingly we're here today to challenge the recommendation that has been made, namely recommendation 11.2, which asserts that the Queensland Government should repeal the amendments made by the *Sugar Industry (Real Choice in Marketing) Amendment Act 2015*. If I could, Chairman, just make a few comments around that? We firstly don't understand how the Productivity Commission asserts that legislation, namely, the findings that it has inhibited further investment in the industry, it has prevented structural reform. And we also question the assertion that farm scale in the Australian sugar industry is low by international standards.

35

40 Can I say that we find that the recommendations are erroneous in that, if I can be very blunt, we believe that the deregulated Queensland sugar industry has not achieved the objectives as sought and stated by the Queensland and Commonwealth Governments, circa 2002, 2003, 2004. In fact we assert that the deregulation from the cane growers' sector's perspective has not created the growth, the economic opportunity and the enhanced financial returns for growers. I'm not seeking an argument here

45

to reregulate the Australian sugar industry but we are seeking to tell it as it is from our sector. And a lot of people will question what I have to say.

5 It's our view that we believe that the deregulation of the industry has
resulted in reduced grower investment confidence. We have not
witnessed, not witnessed, any participation in value adding and
diversification. I would argue there has been a loss of market power by
growers. And what we have seen and which is the culmination of that
10 legislation is the emergence of monopoly behaviour by sugar mills. The
assumption that a deregulated market ensures capital flows into innovation
and productivity sectors benefiting all has not applied to growers. Has not
applied to growers.

15 I want to say this to you, if the regulation inhibits growth why is it
that the period 1988, 1988 to 1998, which was the most regulated era of
the industry, the most regulated era of the industry, the area under cane
increased by 50 per cent and the production increased by 40 per cent.
This was the single greatest growth spurt in the history of our industry and
it clearly tells you that the drivers, the business drivers in our industry, are
20 sugar price, the global price, and productivity issues.

I want to again reinforce the point, we are not seeking to reregulate
the industry, we're simply saying you can't have it both ways. On the one
25 hand you have a deregulated environment, which we welcomed and
embraced at the time, encouraging competition and choice, but as a key
group, a key group, as growers with \$11 billion invested, we have no
choice in terms of milling services because the heart of the issue is the
format of the industry where growers have very little choice in moving
their cane from mill area to mill area. Nor do we have choice in terms of
30 marketing services.

So, Chairman, that's our introductory remarks. And if that Act were
repealed you would find a further erosion of confidence in the industry by
growers.

35

MR LINDWALL: Okay, do you want to start, Ken?

MR BAXTER: Yes, could I come back - I mean, I well remember the
40 1980s period, remember it very well, but I also remember at the same time
that I think it was the Queensland Sugar Board or CSR acting on behalf of
the Queensland Sugar Board was the sole exporter, and I can certainly
remember being at two or three meetings in Queensland which dealt with
the cane assignments which are not a subject because they've now gone,
and a very strenuous complaint about CSR's behaviour, and I can't
45 remember the name of the guy who was then heading CSR's international

division, but I recall having a meeting in Innisfail in which he attempted to explain what CSR was doing.

5 He met a very rowdy reception, can I say, and we had to get the police to escort him out the back door. The industry's changed since then, fortunately. But you, I think - at least Anne was president when we were discussing with (indistinct) the sort of options that are available.

10 If a sugar cane producer produces cane, doesn't like the mill that he's got available to him, what choice has he got in finding an alternative, number one. Number two, is the view that QSL should have the same powers that the old Sugar Board had in relation to exports?

15 What I'm trying to do is get an understanding of the segmentation of the industry, where the parts of it are basically open to effective free entry and departure, and now that the assignments have gone, that is less of a - well, I'd suggest not an issue.

20 The transport cost from Wurrangarra to mill, and again, I gather, to a certain extent dictated (a) because of the nature of sugar cane and the need to get it milled as quickly as possible, but (b) the limitation on resources as option as to whether tramways or existing road contracts, so that's the other one.

25 And then the other segment is if a grower has his sugar mill, decides that he doesn't want it sold, let's say, and we're - you know, I don't take offence to the Wilmar guys sitting in the room, doesn't like them, what's his option to then turn round and say, "Look, sorry guys, you've taken X hundred tonnes of my cane, you've milled it, but I want QSL to actually undertake the sale and marketing of it."

30

So can you take us through - - -

35 **MR SCHEMBRI:** Yes, I can, yes.

MR BAXTER: Reference probably to the early stages and the transition, and then deal with this, what I see, the choice issue.

40 **MR SCHEMBRI:** So if I can reference your earlier points as best I can, and we're not contesting the issue of the doing away with the assignment system. We agree with that. We're not challenging that, and we don't think that it had any impact whatsoever on the revenue streams for growers, so we're not contesting that.

45 The lie of the land in the Australian sugar industry, and it's probably a

historical fact, is that roughly my figures are, and other people can contest these figures, maybe 9 to 12 per cent of the cane, 9 to 12 per cent, out of 34 million, is capable of moving freely from one mill area to another.

5 So let me illustrate the point. I have a farm just north of Mackay, five kilometres north of Mackay. I supply Mackay Sugar, which is a grower-owned company. Should I have disputation with that mill in terms of the contract fairness, which is a normal transactional grievance, my remedy is to send the cane north to Proserpine or south to Plane Creek. Sugarcane's very bulky, it's perishable, a huge transport cost.

10 So in effect, we claim that most of the cane is welded or fixed to that mill. It's not practical for us to move that cane to other mills. The only remedy or recourse I would have, if I'm really upset about life, is to stop growing cane, which hardly seems to be the remedy in this situation.

15 So moving onto the other parts of your question, in respect of - - -

20 **MR BAXTER:** Well, sorry can I - - -

MR SCHEMBRI: Yes, yes.

25 **MR BAXTER:** Just to close the loop. So in reality for the majority of sugar cane, a producer doesn't have any real option if he or she is unhappy with the local miller, for whatever reason?

MR SCHEMBRI: That's our contention.

30 **MR BAXTER:** Yes.

MR MALES: If I may add to that, Commissioner, there is a strong investment. There are barriers to entry and exit of cane farming, specialised equipment that is very expensive, so it's capital intensive. It's very difficult when the farm is set up for cane production to re-establish it for the production of another crop. Cane is suited to the climatic and geographic locations in which it is situated, and as the chairman Mr Schembri has said, it's a relatively low value high volume crop which means transporting it large distances outside of those associated with the mill railway systems is largely uneconomic.

40 **MR BAXTER:** Yes. Well, you've probably heard the questions that went to Don about the transport of cane from up in the tablelands, presumably, to the Mosman mill. I mean, I know enough about Queensland to know that that's a bloody long distance, or a relatively long distance - - -

MR MALES: Yes.

5 **MR BAXTER:** - - - and that the value of the cane starts to decline exponentially the moment you go over a certain period of time.

10 **MR SCHEMBRI:** So Commissioner, can I finish the question that you asked in respect of QSL? QSL is the product of some evolution. Its genesis was a statutory origin, we accept that. But to answer your question specifically, we're not arguing that QSL be invested with any statutory power or any provisions over and above other marketers. We believe that in the framework that we are proposing, or at least that the Real Choice In Marketing is proposing, is that the marketing agencies or the marketing companies or GEI marketers should compete on an equitable basis. So we're not suggesting one iota that QSL should be invested with any powers over and above what the marketplace can supply.

20 **MR LINDWALL:** What you're saying is that the growers should decide on market rather than the millers.

MR SCHEMBRI: Correct. Correct.

25 **MR LINDWALL:** Now, how many - what percentage of growers would choose other than QSL?

30 **MR SCHEMBRI:** That I don't know. We have in the industry regional variations which I respect. For instance, in some regions, the loyalty to a miller could be as high as 95 per cent and they would choose to send it to that miller. We don't contest or challenge that. We support that. You will find in other parts of the state that the loyalty to QSL could be remarkably high. So it's a case of some historical factors and a range of regional factors.

35 Some sugar millers are very proactive in courting their growers, which we think should be one of the outcomes of the Real Choice In Marketing, and to their credit they have been largely successful in that. So I think your question was how many people would support QSL? I couldn't put a figure on it. But there is strong historical support for QSL.

40 **MR LINDWALL:** The property rights issue that I mentioned in a previous comment, when the cane farmers sell it to the miller there's a transfer of property rights to the miller, but the cane growers now want to say to the miller that they don't have the right to decide where the refined sugar should be sold. Is that basically it?

45

5 **MR MALES:** I think, Commissioner, in response to that, there's no contention or dispute in our industry about the calculations or incentives contained in the cane payment arrangements. I mean, roughly two thirds of the value of the final product is for the grower's account, and roughly one third for the miller's account. There are variations because in some areas there is mill-grown cane, and clearly all of the value of that is for the mill account.

10 I think the flow of title in our industry, title flows from the grower to the mill at the railway delivery point, or the cane delivery point, and then, historically and at present, it flows from the mill to the marketer at the bulk sugar terminals. The growers still share in the full risk and reward from that sugar in the marketplace.

15 In the early 2000s, the pricing and marketing arrangements evolved to enable growers and individual mills to manage the futures price component of that market price risk. In 2006 there were further evolutions of the structure, and then an arrangement introduced that enabled the mills, but not the growers, the mills to market and price and manage the whole marketing function for a so-called mill economic interest portion of the sugar.

20 In 2013, of course, when some mills elected to remove themselves from the voluntary structures that were in place they made a unilateral decision to vest the growers' sugar or the marketing of the grower's sugar - changed the vesting of that from QSL to themselves without consultation, without authority, and that's a clear demonstration of the market failure and the mill power in the system as it stood at that time.

25 *The Real Choice In Marketing Act* provides for contestability in the provision of marketing services for both grower and mill economic interest sugar, recalling the full value of - from the marketplace of the grower economic interest sugar flows to the grower, the full value in the marketplace from the sale of mill economic interest sugar flows to the miller.

30 And our contention is quite simply that growers should be able to choose which marketing channel, be it the mill or QSL or another marketer, that takes their product to market and determines its value. You asked a previous witness, Commissioner, about the changing risks and what happened if cane fell off a railway line or a bridge collapsed or something.

35 For that part of the production system, that production risk is for the

mill, but that doesn't alter the fact that the growers retain an economic interest in the risk and reward from the sale of the final product in the marketplace.

5 The fact that the ownership changes at the mill siding, and then again at receipt of the sugar in the bulk sugar terminal, simply is a mechanism to facilitate the sale and price risk management and the funding of advanced payments and all of the associated activities, to support the marketing system in the industry.

10 **MR LINDWALL:** Clearly there's a difference of opinion here in terms of the view of the use of QSL in terms of marketing. Some millers, particularly Wilmar, are probably of the view that they achieve a better outcome by marketing it themselves rather than using QSL. What if they're right?

15 **MR MALES:** Well, then the growers will choose them.

MR SCHEMBRI: Well, the growers will choose them.

20 **MR LINDWALL:** But the growers might not perceive that. I mean, why would a miller who's selling - marketing sugar deliberately go out of its way to choose a lower price than an alternative? It doesn't seem to make any sense, because as you just said, you share in the rewards of the price, so therefore it's in the incentive of both the grower and the miller to achieve the best price possible and I don't see where there's a conflict of interest there.

25 So if the miller is of the strong view that it could achieve a better outcome for itself and therefore for the farmer as well, then maybe the miller's right?

30 **MR SCHEMBRI:** My response to that would be that notionally, at first glance, that would appear to be right. But in the fullness of time, if you're arguing that the sugar and all the rights surrounding that are exclusively, call it the property of a company, then you can't safely assert that in the fullness of time that grower is going to always get a premium outcome or a premium reward.

35 Surely in any marketplace, or at least that's what I understood deregulation was meant to achieve, that the grower could exercise choice, and hence it is the contestability and that competitive tension that should give rise to outcomes. If ultimately that milling company outperforms QSL it will obviously grow and enhance and QSL will obviously contract - - -

40
45

MR LINDWALL: But you'll never observe that if everyone continues to go through QSL. You'll never observe the counterfactual.

5 **MR SCHEMBRI:** Well, maybe there's a misapprehension here. We're not arguing that all the sugar go through QSL. We're arguing that growers elect to place sugar through QSL on the basis of choice. If a grower elects or 100 per cent of growers in a region elect it go through Wilmar, that is their decision and we respect it.

10 **MR BAXTER:** Can I just follow that? If I was a grower sitting on the edge of my tractor or somewhere else and thinking about what I do, is it a possibility that either QSL or Wilmar or whoever else is processing, likely to process and sell the sugar, can give me an indicative price at the time before I put that sugar cane on the truck and say, "Well, we will at least warrant you X dollars per tonne of processed sugar".

MR SCHEMBRI: Yes.

20 **MR BAXTER:** That's possible?

MR SCHEMBRI: That's the model of competitive tension, yes.

25 **MR BAXTER:** So it's not dissimilar to parts of - I see Don's shaking his head?

MR LINDWALL: We can't take testimony from the - - -

30 **MR BAXTER:** No, I know, but - - -

MR LINDWALL: If you want to say something later you can come - - -

35 **MR BAXTER:** Yes, I'd like - I mean, one of the changes - it's not dissimilar to what happened to the wheat industry, and there was concerns that when the Wheat Board lost its monopoly powers that the grower would have no indication as to, you know, what was the balance between supplying wheat to Mr Honan, who owns the ethanol plants, to the local flour makers, and for export.

40 And Australian Wheat, or Wheat Marketing, as it's now become, turns round and says, well, we can't guarantee it, because obviously the national wheat market is highly volatile, depends on exchange rates, but if you grow X class of wheat it's this quality, then the indicative price, when you deliver it to the grain terminal, is X.

45

Now, you mightn't get paid for 10 or 12 months, but at least you're given a piece of information which helps you make a decision as to what you do. Does the same situation exist in the sugar industry as you're proposing?

5

MR MALES: The key difference between the grain and the sugar industry is the farmer has the grain and he can take it to whichever marketer he chooses to for the sale of that grain, and he has a number of options available to him for the associated price risk management.

10

In the sugar industry, for this product to be saleable, the sugar cane needs to be transformed into raw sugar, and as we've described, the growers then face the full risk and reward from the marketplace, as does the grain grower, from the marketplace associated with his grain. In the case of the sugar industry, the cane grower faces the full risk and reward from the raw sugar, the raw sugar produced from his sugar cane.

15

So it's not until he has that physical product and he continues to have an economic interest in that physical product that he has something that is marketable. All that we are contending is that there should be contestability in the provision of marketing services for the raw sugar that determines 100 per cent of the value that flows to the grower in payment for his cane.

20

MR LINDWALL: Could I say that one of the worries I have - because you are relying very heavily on one act of parliament here, and potentially - well, the whims of parliament, they come and - the act could be repealed for all sorts of reasons. The National Competition Council might come down and find that it's contrary to the Competition and Consumer Act. So wouldn't it be better for the industry to do its work itself, rather than relying on the state to help it out here?

25

30

MR MALES: I think it would be very helpful if the industry were able to come to that view, and in fact one of the main groups have already come to that view and made it very clear to their growers that the choice in the marketing arrangements that they are going to - that they are offering will be there in the fullness of time, whether the Act is repealed or whether it stays in place.

35

Other milling companies have not made that decision. For their own corporate reasons, they have made the implementation of the Sugar Industry Act perhaps more complicated than it needs to be, with much obfuscation in the process.

40

MR LINDWALL: The testimony earlier today from Wilmar is that the

45

legislation has caused a reduction in investment. Do you dispute that, or - I mean, surely if there's an investment loss in the industry, or even worse, there's an exit of the capacity for milling, then the growers themselves will be suffering substantial harm?

5

MR SCHEMBRI: I note that reference has been made to an investment in a terminal by a milling company. I can't comment on the specifics of it, but I don't accept that proposition. I bluntly do not accept that proposition. I find it interesting and intriguing that the same company, Wilmar, invested in this Australian sugar industry when it was highly regulated and spent \$2 billion in investing in the industry, and I respect that is a massive investment.

I get that. We understand that. They at the time made - gave assurances that they were comfortable with the industry as formatted to a whole range of people, including the Foreign Investment Review Board, and investment took place freely in the industry.

So I just don't understand how suddenly when a piece of legislation appears that all the investment can end. Can I reinforce Mr Males' point, without naming another company, speaking to the CEO of that company last week he tells me he's moved on from the legislation and they are quite soon to make some announcements about further investments in this industry. It's not for me to make reference to those things, but clearly it shows that a lot of companies have got on with life in terms of investment and forming contractual arrangements with growers.

One of your points of your question was, the legislation is littered with references, "unless otherwise agreed". Growers can make commercial agreements with a mill owner, and that's what MSF has chosen to do.

MR BAXTER: Can I just ask the question, and I must insist that it's totally hypothetical, but what would you do if there was no legislation?

35

MR SCHEMBRI: What would we do? I dare say we probably would be back to where we were. In 2014 three milling companies without reference to growers unilaterally decided to accept a marketing system, and despite the fact that the Queensland sugar industry had entered the deregulated era, memoranda of understanding signed by the Queensland Premier Peter Beattie and the industry made it clear that any substantial structural changes, i.e. changes to marketing, had to be done in consultation with growers.

45 Because the history of this industry and marketing is that all the sugar

is put in a huge bucket, and we value it all up - - -

MR BAXTER: So it's a pool arrangement?

5 **MR SCHEMBRI:** It's a pool.

MR BAXTER: Yes.

10 **MR SCHEMBRI:** It's a pool where we lever up opportunity. So the proposition appeared to us that a single party unilaterally wanted to take the bucket the rights, and then allocate and attribute possibly revenues to the growers. That was clearly not in the spirit of what the industry needed to be, because there's been collective investment in this industry, and so to answer your question, I think we might end up at the same intersection.

15

At least we take the view that this legislation has provided certainty and at least it's a fallback position. Some people have moved on since the legislation. One company, MSF, as I understand it today, I don't want to misrepresent them, the growers are signing the cane supply agreements. There are some other agreements yet to be agreed to, but they have moved on.

20

MR LINDWALL: Okay. Are there any - we don't have much time, so I think we've asked enough questions about that, but anything else in the environmental space that you'd like to add while you're here, that you might like to put on the record?

25

MR SCHEMBRI: In terms of the environment? Yes, we understand we have a major challenge in terms of environmental sustainability. The industry gets it, that we need to be environmentally sustainable. If we're not, we lose our social licence. My lifetime, I could document five industries that are now in the pages of history. We accept that's a challenge. Our proactiveness is on the record. We have developed an industry program called BMP which is - - -

30

35

MR LINDWALL: Sorry, what - - -

MR SCHEMBRI: BMP, best management practice. And to the credit of the mills, they have strongly supported it. Likewise the mills are supporting a program called Bon Sucro, which is an international environmental certification. Farming practices have changed remarkably to ensure that we become environmentally sustainable.

40

Ultimately, as a closing comment in relation to the environment, if we don't make it, the communities can turn our lights off. So we're up for

45

that challenge. It's a big challenge, but we have to get across those barriers.

MR LINDWALL: Okay, good.

5

MR BAXTER: On the subject of turning the lights off, we note your last comment about electricity prices, but unfortunately, the Treasurer didn't give us the scope to deal with that issue.

10

MR LINDWALL: Yes. It was an interesting issue, I must admit.

MR SCHEMBRI: Yes.

MR LINDWALL: Thank you very much for appearing.

15

MR BAXTER: Just one other - is the industry using genetically modified organisms in terms of any of its crop species?

20

MR SCHEMBRI: The current status in relation to genetically modified sugar cane crops is we are fairly advanced. We have produced the cane. Basically at this juncture it is variety traits that can resist, say, grub damage, or what did you call it? Roundup resistant, that type of thing. But as you know, in Australia everyone's finding it hard to jump that regulatory hurdle. We as an industry through Sugar Research Australia have invested millions in a joint venture with a company called Dupont to see if we can be genetically-modified ready, because if people in the marketplace make that move we need to be there with them. But we are finding it very difficult in terms of regulatory barriers.

25

30

MR LINDWALL: But could I ask about, on that topic, since we had a large discussion on this the other day in Canberra, about new breeding techniques and some advanced techniques that - I wonder if - have you heard of the possibility of your sugar cane not lasting for a longer period of time, which would solve a lot of your problems, I would have thought.

35

MR SCHEMBRI: Lasting for a longer period of time?

MR LINDWALL: Before it has to be milled.

40

MR SCHEMBRI: If you've got the answer, I'll give you a drink tonight. Seriously, I mean, you're spot on. I mean, when I started growing cane a long time ago the average life of returns was about 12, 13, 14 years. We're down to five or six. And that's a legacy of pests and diseases which have attacked some very good varieties. So you're absolutely right. Longevity of returns would give us a better economic return on planting

45

those cane.

MR LINDWALL: Okay. Well, with that - - -

5 **MR BAXTER:** Yes, that's all right.

MR LINDWALL: - - - thank you very much for appearing, and we now move totally in another direction to talk about the National Heavy Vehicle Regulation Scheme.

10

I have to encourage people to speak up. Apparently it's a bit hard to hear at the back, so - these microphones don't amplify, they just take a transcript. So you'll just have to project your voice somehow.

15 **MR HASSALL:** I'll talk in a loud voice.

MR LINDWALL: Yes. So if you could introduce yourselves, that would be - and then give an introduction, that'd be great.

20 **MR HASSALL:** Certainly. On my left is my colleague Mr Peter Caprioli, the Director of Access within the National Heavy Vehicle Regulator. On my right, Ms Tania McDonald, Executive Director, Strategy and Stakeholder Relations. And myself, Ray Hassall, Director, Regulatory and Legal Services.

25

MR LINDWALL: Thank you. And do you have an introductory presentation you'd like to make?

30 **MR HASSALL:** I do, I have a couple of brief comments and then just a couple of outline topics. I'd like to start by thanking the Productivity Commission for providing the National Heavy Vehicle Regulator the opportunity to give evidence today.

35 As you may be aware, we are the independent statutory authority that regulates all vehicles over four and a half tonne GVM, or gross vehicle mass. Our vision is a safe, efficient and productive heavy vehicle industry serving the needs of Australia. Our role is to develop and maintain a regulatory framework that supports the industry and all parties in the supply chain to take responsibility for safety while promoting sustainable
40 improvements in productivity and efficiency, and to do so we work closely with the Australian government as well as states and territories, local governments, the heavy vehicle industry itself, including all parties in the supply chain.

45 We understand from your report that there are a couple of areas that

5 you are particularly interested in in relation to permanent reduction activities, the increased use of gazette notices, regulatory telematics and data. So we've got some comments that we're more than happy to prepare, or alternatively if you'd like to start questioning us we're also open to that.

MR LINDWALL: No, well, continue if you like, yes.

10 **MR HASSALL:** Lovely. If I can just start off perhaps just setting the scene, we tend to distinguish two particular aspects of regulation that are relevant to the agricultural sector. Firstly you've got the movement of agricultural products from the point of production to, you know, their ultimate endpoints or various points along the logistics chain, and that's typically using general freight vehicles, and it bears a strong similarity to
15 other parts of the general freight task.

The second part of the regulatory framework that's relevant in this area is the movement of agricultural vehicles, implements and combinations on public roads between points of production, and this is
20 typically undertaken by primary producers, their family members or contractors, and we typically call those ancillary activities.

We don't - our regulatory ambit doesn't run to private vehicle movements. That tends to happen under the workplace health and safety
25 system, if at all.

MR BAXTER: Sorry, can I just get that clear? So if I drive - excuse me - a header from one side of the road to the other, I don't need to notify - or the NHVR doesn't become involved, but the local police or somebody
30 else does become involved?

MR HASSALL: If you access a road, and that's got a fairly long-standing purposive definition in Australian law, then once you go past a prescribed mass or dimension requirement you're typically falling within
35 some sort of concessional need, so if you're simply driving from paddock to paddock, it's none of our business.

MR BAXTER: No, I understand that.

40 **MR HASSALL:** If your cherry picker hits the wire over your head, workplace health and safety will come out. But if you start travelling on public roads and interacting with members of the public, potentially or actually, then if you go past one of those thresholds you become of
45 interest to us.

MR BAXTER: Yes, okay.

5 **MR HASSALL:** So that first category of activity, your general freight movements, is the same as, you know - sorry, your general agricultural freight is the same as general freight movements, those sorts of - you know, your food and drinks and so forth. And they're subject to the same sorts of challenges. People want - - -

10 **MR BAXTER:** One in particular might be animal welfare, which doesn't necessarily apply in many other spaces.

15 **MR HASSALL:** That's correct. Most of the products - perhaps seafood, I suppose. They tend not to deteriorate at the same rate, so packaged goods, construction materials, you know, very, very large and divisible items don't typically perish.

20 But as a general rule, people will want to use their assets more intensively and they'll want to use public assets more intensively, so they want longer vehicles, they want heavier vehicles, greater payload, and to be able to use them for, you know, under a more intensive process.

25 That tends not to apply so much in relation to the use of agricultural implements. That tends to follow seasonable requirements, or in some cases changes in manufacturing patterns. You might see larger vehicles coming in, and particularly the self-propelled vehicles that do then start to interact with the mass thresholds in particular, and certainly dimension around width and height.

30 So some local government managers may have very little experience of permitting processes for agricultural implements, and that's regardless of the legislative framework or what governments might expect to be happening. They might see one or no applications over a long period of time, and have not a particularly well-developed framework for dealing with them, and to be clear, the category of agricultural implements is very broad. It covers non-standard vehicles that may not have the same performance characteristics as general freight.

40 So there are clearly two different aspects of regulatory activity, and except for the fact that they operate on public roads, there's not a lot of commonality between them. So within the general agricultural - - -

MR LINDWALL: You might have to speak up a little bit.

45 **MR HASSALL:** I beg your pardon. Within the general agricultural freight task, it's our understanding that, you know, vehicles want larger -

sorry, operators want larger vehicles to get onto the roads, and they want them to get onto the roads more quickly, but they face the same problems that everyone else does who are trying to get access through those vehicles in terms of getting road managers to understand and consent to their use.

5

We have a program called the Performance-Based Standards (PBS) Program, and that allows vehicles that don't comply with the prescriptive design rules to be approved more quickly. There is a disconnect, though, between the mechanical certification process and the access process. As you would be aware, we are not the consenting body for public roads, it's the road manager in each jurisdiction, so we can influence the supply of those vehicles into the regulatory system by approving them more quickly and be developing proposals around them, for example a PBS network, which my colleague Mr Caprioli will speak to, but ultimately we can't compel the road manager to accept them. We can simply provide high quality data that says, "Look, it meets the minimum standards approved by minister in this area, we would recommend its use."

20

Peter, have we done some work for PBS and agriculture lately?

MR CAPRIOLI: Well, some of the things we've done for - to - not specifically to support agricultural vehicles but the movement of agricultural products is a lot of work around the movement of containerised freight, export containerised freight, specifically from Darling Downs, western regions, to the port.

25

You know, we do have some numbers in giving some understanding that, you know, there are, you know, around 200 million kilometres saved per year by using PBS vehicles on certain routes, and those PBS vehicles are taking smaller vehicles off the road, so you know, the schemes provide significant benefit to movement of - - -

30

MR BAXTER: So PBS is B-doubles?

35

MR CAPRIOLI: No, PBS - - -

MR BAXTER: What's PBS?

40

MR CAPRIOLI: Well, PBS is about giving the operator the flexibility to build something else other than vehicles that are currently identified in the regulatory framework, to actually suit their transport needs. So specifically, the problem between Toowoomba and the port was it was a route that was specific for the operation of a B-double combination.

45

Through PBS, we were able to develop a 30-metre-long vehicle that

was able to carry two containers instead of one, when one container was only permitted to be operated on a B-double because of its mass. So hence we reduced the freight task by 50 per cent.

5 PBS established that A-double performed similarly as a 26 metre B-double in terms of its performance going around a corner, changing lane, and being able to, you know, move up hills and down hills, so hence give it access to the network, reduce the freight task by 50 per cent.

10 So currently there is approximately 98 A-doubles running from Toowoomba to the Port of Brisbane, as there are in some other jurisdictions as well, but the biggest use of A-doubles is probably between Toowoomba and the port of Brisbane.

15 **MR HASSALL:** So as you'd expect, probably the highest level of innovation's happening at the state government level.

MR LINDWALL: Yes, yes.

20 **MR HASSALL:** The Queensland government, for example, is doing some work to upgrade infrastructure around Rockhampton to allow livestock road trains to go through. We've been working with Department of Planning Transport and Infrastructure (DPTI) in South Australia to bring in - what were they? AB-quads, I think. To bring them into line with access entitlements. What were they?

MR CAPRIOLI: AB-quads.

MR HASSALL: Beg your pardon, AB-quads.

30 **MR CAPRIOLI:** The ability to hook two B-doubles up into a road train.

MR HASSALL: Standardising their access entitlements with other jurisdictions so you can make those longer journeys. The difficulty is probably what is referred to as first or last mile access. Once you get off those, you know, thicker, better understood state road networks and onto the local road networks, and the issue there, which I think the Commission identified either expressly or implicitly in its report, was the lack of data. There is just not necessarily an understanding of the frequency or the type of use for either general access freight vehicles or agricultural implements on those local roads to allow those decision makers to sort of act confidently and to innovate.

40 **MR BAXTER:** Vehicle telematics would help a lot there, I would - - -
45

5 **MR HASSALL:** Yes, I think so. I mean, we obviously as a regulatory authority don't have a policy of mandatory usage. It has to be a policy response that is realistic, that people are going to use, and that has some benefit in them. So you could fairly easily envisage a system where you trialled telematics on a sample of vehicles to say, look, you know, these are our assumptions about what happens within the span of a 12 month permit. We assume that, you know, this particular category of tractor is just used to drag implements across around harvests.

10 But it may well be that they're used for a whole lot of other incidental purposes we don't know about. They maybe use less in some situations. It's very difficult to ask a road manager to confidently expand the envelope for vehicles they're prepared to use, or the time the vehicles are going to be allowed to use the road if they don't understand the use patterns.

MR LINDWALL: Okay. Did you want to say anything more - - -

MR HASSALL: Sorry - - -

20 **MR LINDWALL:** No, no, to do introductory comments?

MR BAXTER: No, no, I've got a specific question.

25 **MR LINDWALL:** Okay. So have I, but do you want to go first?

MR BAXTER: No, you - - -

30 **MR LINDWALL:** The abolition of the Road Safety Remuneration Tribunal, and transfer of funding to the Heavy Vehicle Regulator, how is it - how are you deciding to disburse those funds to improve road safety by trucks?

35 And also, given that the Road Safety Remuneration Tribunal operated across Australia and WA is not part of the scheme as yet, I understand that some of those funds are still being used to improve safety in WA, which is not even part of the scheme, is that right?

MR HASSALL: Can I deal with the first part of that question first?

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

MR HASSALL: As you would image, we have, you know, quite a number of proposals that we can call on to attach funding to that will have a meaningful impact on safety and, as a consequence, productivity. The

45

two that come to mind immediately are the National Compliance Information System, so the static camera system that detects vehicle usage, because obviously heavy vehicle driver fatigue is one of the largest, you know, perceived contributors to safety, and if the community doesn't believe that these vehicles are being operated safely then they're going to be much more resistant to, you know, our initiatives to expand their use.

So we are currently undertaking trials in Victoria, I believe, and I think some of the (Road Safety Remuneration Tribunal) funding is proposed to be devoted towards the expansion of that trial.

MR LINDWALL: So these cameras not only detect speed but also whether a truck is not being driven - are they able to detect whether a person is looking drowsy or something?

MR HASSALL: Not in and of themselves, no. They're largely used for point to point. They may be used as a basis for subsequent investigation, that quite frequently happens. But they have no evidentiary value for actual driver - the individual driver fatigue.

MS McDONALD: I was just about to jump in and say, and I think the other benefit is actually at the moment we don't have a national picture across borders, so what the accelerated funding - we'll use that to accelerate the hardware that will enable us to plug in the systems that will actually allow us to use that, and move from a system where you're sort of relying on random enforcement activity to being able to hone in on more targeted activities. So I mean, that's kind of critical in where we need to go as a regulator, with that national picture.

MR HASSALL: So the NCIS is part of the proposal. I think the other main purpose to which the funding would be put is the development of industry codes of practice. They've been sort of taken up with varying degrees of enthusiasm. I believe there was one for grain in South Australia, for concrete pipes in Victoria. We think that there's a good market to give operators advice about risk management. We think that has to operate at a fairly high level.

We still want to see industry actively engaged and investing themselves in material that satisfactorily defines safety, but we do also want to give them some guidance around, well, you know, here are the, you know, industry standard best practice principles that you should be looking at instead of just doing a little work procedure that applies to a task.

So some of the funding will be devoted to that as well to assist

industry to develop and register those codes.

MR LINDWALL: And in terms of Western Australia, sorry?

5 **MS McDONALD:** I could probably - with the National Compliance
Information System (NCIS) program, the intention is actually to work
with the NT government and WA government in order to have a fully
national camerawork. We engage already with those jurisdictions on a
10 number of different programs. Like, they are participating, I understand,
in some of the roadworthiness surveys.

So even though they might - you know, there are a number of
programs we already work with them on, but that will be part of our plan
to get a truly national picture. And they are interested in that as well.
15 That has benefit for that.

MR LINDWALL: So are you confident you can say that the money that
was formerly allocated to the Road Safety Remuneration Tribunal, now
20 allocated to the National Heavy Vehicle Regulator, will lead to a better
safety outcome than if it had lapsed where the previous organisation still
existed?

MR HASSALL: I can say that we will be using it sensibly and that we
have a dedicated program that we think will deliver those benefits. I'm
25 not particularly - - -

MR LINDWALL: I mean, there are some synergies. You would expect
that that might be an outcome, but I would hope that's outcome.

30 **MR HASSALL:** Yes, I mean, we wouldn't embark on the programs if
we didn't - they weren't created for the funding. They'd been in
contemplation. The funding is a useful supplement to accelerate them.

MR LINDWALL: Yes, all right.

35 **MR BAXTER:** Look, I've got two questions, knowing time is short.
One is in your submission you said that the Heavy Vehicle National Law
(HVNL) needed further improvement. The first question. The second one
is, in the course of a number of the submissions put to us there has been a
40 high level of criticism both about the permitting time, in the case of a
number of local government areas a lack of communication about the
conditions that are needed and a lack of understanding or difference
between the states and the NHVR about the status of particularly a number
of the bridges on local roads, and the problems that have been exacerbated
45 in Queensland in New South Wales by the closure of a number of the -

what are described by the state government as uneconomic grain lines which have forced either trucks and dogs or B-doubles onto local roads which have not had the funding and concern about bridge safety.

5 The first one, the improvements to the HVNL that you suggested, what are they?

MR HASSALL: Just to be clear, there are things we can do even within the context of the law as it stands. If you look at it - and I won't take you
10 into detail at the moment. They do deal with things like standard conditions. That's in attachment 1 to our hand-up submission.

In relation to the law itself, we I think are on the record as saying we would prefer to see standardised permit durations in place, so that
15 operators weren't simply going and recycling permit applications which are granted in 88 per cent of cases.

That would be the first case. We would like to see some more detailed policy analysis about whether or not the default position should
20 be that a permit is issued. We never expressed a view as to whether or not permitting should be removed as a requirement. That simply goes to government policy that wouldn't be appropriate for us to speak to, but we do think that there's ready scope within the Act to make the process much more automatic for vehicles whose performance characteristics within an
25 envelope are well understood.

So if a vehicle is safe at 4.6 metres high on a road, we think that the next applicant should be getting 4.6 except where there are extenuating
30 circumstances. They are quite straightforward ones. I can actually give you another proposal that we have already provided to the National Transport Commission to make improvements previously.

Technology probably can facilitate the application process, so regardless of where you stand as to whether a permit's required or not,
35 we've just released an IT platform for customers so they can see where their own applications are. And you know, some of these applications are inherently risky. So it's not appropriate to say that every application should be dealt with in hours. It's simply not a realistic expectation of the community that that occurs. We can do away with some of the
40 administrative inconvenience so that people know where their permits are, they know where the delay is, or they know where the assessment need to be undertaken.

The second part of the process is building a bit more infrastructure for local government road managers through the portal, so
45

5 instead of, you know, relying on emails and officers being, you know, away for the weekend on a public holiday, you can 24/7 access to all the HVNL matters that relate to your particular area of responsibility, so notices, permits, pre-approvals, which we think are a useful halfway house between permits and notices, and if we can give road managers that, that should be a step towards removing any reasons for delay at an administrative level.

10 **MR BAXTER:** I have a question. You're an unusual beast in that you involve all the states but you have one single state which is the legislative source of your power. The question is how effective has that been? The second one is that I understand since your formation you have had at least one if not two external reviews done by major accounting firms of your performance. What's been the general outcome from those reviews? I'm 15 more interested in the first one, but I'd be interested to get your reaction to the second, which may have to be as a question on notice.

20 **MR HASSALL:** Look, it may have to be. We have an internal auditor who provides a rolling service, as you'd expect.

25 **MR BAXTER:** Yes.

30 **MR HASSALL:** We have - we did have an audit undertaken by the Queensland Audit Office for - they called it an effectiveness audit. It was problematic, because their jurisdiction, unlike ours, is stuck within one state, and I don't believe any other government or agency or minister actually participated in that audit, so you'd have to extrapolate from the limitations of their jurisdiction.

35 I think their recommendations were that there was a clear need to work better - to work more collaboratively with road managers at both the state and local government level. That was a clear recommendation for us. They wanted some more detailed project reporting, but I don't think that's of interest to the Commission.

40 Again, in attachment 1, we've outlined what we think the resources we're providing to road managers that are going to be useful to them, and obviously we run, you know, the usual consultative processes to make - even at an industry level, including the agricultural industry, to make sure that that collaboration is occurring.

45 Without the data, our ability to provide useful information to people is constrained, though, so our resources in that area will be limited until we can get those better sources up and running.

MR BAXTER: What type of progress has there been in terms of harmonisation of road regulations? And what can be done to expedite it? Is it simply that the states have inertia and it's hard to get common ground?

5

MR HASSALL: Look, harmonisation isn't inevitably good, because you'll see trade-offs, and harmonisation isn't necessarily relevant. So some of the concessional schemes that have been created for the viticulture industry, for example, or the cross-border region are of no interest or relevance to other producers, and they would be wasting their time effectively to participate in a harmonisation process.

10

We have - we've moved a lot of notices in Queensland out of permits and class permits and schemes into a more transparent system. The big ticket item for us is probably around the harmonisation project which my colleague Tania can speak to, where we will deal with general access, including general agricultural freight, and we have committed to producing a national agricultural notice.

15

MS McDONALD: Yes. So as with regulation, we're just establishing a national harmonisation team, and it will distinguish between - not that harmonisation hasn't been going on, it has, but I guess we're just putting a whole lot of more resources into it.

20

As you can imagine, and the Commission's already noticed in the report, it's a rather complex task. Our - the way that we're going to be approaching this is sort of - it splits into two divisions. So one, we look at a range of opportunities or suggestions or things we've been asked to do that are in the national interest, and then as my colleagues indicated, there is also a lot of local productivity initiatives that will be more beneficial for a particular sector or state.

25

30

So how we run this, I suppose, is we look at what's the high productivity, high safety benefits that we can get out of those in terms of putting our general focus on with the colleagues. Because obviously we have to work these through with the jurisdictions so that we actually get proper outcomes, and also we work through with the industry on it.

35

But you know, what we actually want to see is a truncation of time, so that's one of the things that - that's one my challenges, and that's the - that we'll be looking to reduce the amount of time it takes to do this. And this program of work is largely about reducing the day to day business that is, I think, one of the barriers to increasing productivity and streamlining.

40

So I'd like to see some - I think we'll see some progress on our kind

45

of priority areas in the next six months.

MR LINDWALL: Do you want to go on, Ken?

5 **MR BAXTER:** No, I've got no further - - -

MR LINDWALL: What's been the road users' feedback on published national gazette notices in - - -

10 **MR HASSALL:** We don't do customer satisfaction surveys on the quality of the notices, but it's probably worth noting they're quite familiar with their content.

MR LINDWALL: Okay.

15

MR HASSALL: I'm not sure they're necessarily the right way of expressing this information into the future. They tend to be, you know, fairly legalistic documents that are published on the commonwealth government gazette website, and they have to be read by someone trained in it. I'm not sure that's actually the right way to go.

20

We've done some interesting work in Tasmania, for example, creating effectively a heavy vehicle classification framework for very, very large vehicles to do oversize/overmass movements, and I think we've moved that jurisdiction, in conjunction with a lot of work by industry and the department, we've probably moved them 20 years in a year from paper-based permits to a system that's, I guess, two thirds of the way to the background work you need to do to create a contemporary heavy vehicle access system.

25

30

It's still constrained by things, by weakened bridges or lack of information around bridges, but at least the regulatory side of it is getting ready for genuine reform.

35 **MR BAXTER:** I mean, this may sound a trivial question, but it's been raised frequently, and what prompted me was your reference to bridges. How serious is the bridge issue outside the main trunk roads?

40 **MR HASSALL:** Well, I think there's something like 200 wooden bridges in New South Wales alone, so from the asset manager's perspective it's an extremely significant issue. As to their condition, I couldn't say. You would need to talk to someone who was a specialist.

45 **MR BAXTER:** And in Queensland? A similar number of bridges?

MR HASSALL: I think New South Wales has the highest distribution of wooden bridges, but - - -

5 **MR LINDWALL:** Not sure? Okay. We might have - given the timeframe, if you don't mind, if we have a few more questions we can send them through out of session? All right.

MR HASSALL: Yes, that's fine.

10 **MR LINDWALL:** Thank you very much for coming then.

MS McDONALD: Thank you.

15 **MR HASSALL:** Thank you.

MR LINDWALL: Thank you. And now we move to Jim Crane from the Australian Sugar Milling Council.

20 **MR NOLAN:** You've actually got two for the price of one.

MR LINDWALL: Gentlemen, if you can introduce yourselves, and then give us a bit of an outline of what you'd like to say today?

25 **MR NOLAN:** Thanks very much. My name is Dominic Nolan. I'm the Chief Executive Officer of the Australian Sugar Milling Council, and Jim Crane, Senior Executive Officer.

30 Thanks for the opportunity to speak with you this afternoon. We'll assume that the main part of this is about getting into a discussion on a QA on points that we either raise now or from our submission at the initial part of the inquiry and on the draft report.

35 I will make some brief opening comments, and I'll leave it open to your discussion from there. The Australian Sugar Milling Council represents sugar mills that account for around 95 per cent of raw sugar production. Of our six members, three of our members gave notice to QSL under the voluntary contractual arrangements that they have to exit QSL back in 2014, and three of our mills are still operating within QSL.

40 Our approach to public policy and to regulation is a strongly principles-based logic approach. We operate against issues of market failure, least cost for optimum result, and working against questions that any sound regulatory impact statement process should consider and follow, and in particular looking at those two questions, what is the
45 problem that is sought to be addressed, and why is government action

needed?

5 Each of our members face individual regulatory impact on their
business operations. Our comments today will be more general in nature
across the sector and indeed across the industry. In terms of scale of
operation, the ASMC submission points out the impact of regulation
where it might be seen to have a relatively minimal impact on a farm by
farm basis, however the overall productivity impact, whilst it might be
considered to be a few percentage points here or there, or at the extreme
10 end taking out a farm or two from production, the more extreme impact
might be on a scale basis on a sector-wide consideration. So to put that
into perspective, if you had a productivity impact of 5 per cent on a sugar
cane region, that has a substantial impact on a milling operation and
milling viability, and if you had a sustained 10 to 15 per cent productivity
15 impact, that could lead to the closing of a sugar mill.

So when we look at the regulatory impact of various government
policies or considerations it's important to not only look at the individual
impact on a business by business, but on the broader whole of scale,
20 whole of industry impact. And clearly with the closure of a mill or
something of that nature, in addition to the major impact on the cane
farming businesses there are major impacts to regional communities, land
stewardship and economic impacts at a regional and state and national
level.

25 If we turn to arrangements to support the biofuels industry, the
Queensland government has got a stated 50 per cent renewable energy
target, and I think we've pointed out that there's demonstrable benefits,
environmental benefits, that accrue based on the use of ethanol from
30 molasses as part of a blended fuel.

There are regional development benefits from encouraging an
advanced manufacturing industry based on biofuels that is unlikely to
flourish given the oligopoly of the oil companies that currently controls
35 the retail and distribution system.

So we've got environmental benefits, regional development benefits,
and market factors that would prevent the development of a biofuels
industry absent government intervention. A mandate can lead to cost
40 savings for consumers if a policy such as the Queensland government
mandate is implemented effectively.

Queensland government has learned from the New South Wales
program challenges, and there is an opportunity for a successful
government program to be run. I think importantly we see the mandate as
45

5 being an enabling government policy to facilitate the development of
further bioproduct industries in Australia. Once there's a secure ethanol
industry and capability, particularly in conjunction with co-generation
plants, the opportunity then to take the next step into other diversification
products that might be seen as bio-replacements for petroleum-based
products in the chemical industry.

10 So that is - the future range of successive generation biofuels are
unlikely to be based on ethanol blends, and more likely to be straight
products for direct sale into the chemical industries.

15 Turning to the amended Queensland Sugar Industry Act, one of the
biggest challenges we faced when considering the amendments to the Act,
besides the fact that we weren't consulted on the proposed amendments as
the milling sector prior to the bill being passed, is that it was never clearly
identified what the problem was that the proponents of that bill were
seeking to address through the amendments.

20 I have heard mention of it, of the MOU that was signed by cane
growers, ASMC and the Queensland government in 2005 leading up to
deregulation. There have been false claims that that MOU bound the
industry to a single desk marketing arrangement. That MOU also states
that the commitment by suppliers, that is, by sugar mills, is a matter for
25 negotiation between QSL and the individual suppliers. This was
evidenced by the fact that while most mills continued to export sugar
under voluntary contractual arrangements with QSL from the time of
deregulation, from the outset there were some mills that exported sugar
themselves outside of QSL.

30 I think clearly deregulation in 2006 was always meant to mean
exactly that, deregulated marketing environments. The intent at that time,
certainly initially, was for most mills to stay with QSL to allow QSL to
develop a commercial approach to marketing arrangements, and that
35 occurred for the first almost 10 years of deregulation.

40 The MOU also stated that the future could not be a construct of the
past. To suggest that the intention of deregulation was to continue
marketing sugar under a single desk arrangement forever, or for any long
period of time, is false. So the construct of the MOU from 2005 is
certainly consistent with the Productivity Commission draft
recommendation that the amendments to the Sugar Industry Act should be
removed, and to allow the industry to operate in a deregulated marketing
environment.

45

5 There has never been a demonstration that anything that mill companies were proposing to do in the deregulated marketing environment that existed from 2006 to December 2015 was an abuse of market power or would result in a poorer financial outcome for growers, or that the mills were in any way breaching the spirit or the intent of deregulation 10 years ago, for which the industry was paid close to \$500 million.

10 Mills have not proposed to change the existing revenue sharing cane payment formulas that were in existence, and nor was there a request by growers to change the cane payment formula leading up to December 2015.

15 The amended legislation has cost millions of dollars since December in implementation and we are still a long way from finalising new commercial arrangements across the mill companies who in 2014 gave three years' notice under their voluntary contracts to exit QSL. So from - so that notice period kicks in from 1 July next year.

20 There are no demonstrable benefits as a result of the amended legislation, and there is still a great deal of uncertainty and there has absolutely been a negative impact on investment considerations. We would urge the Productivity Commission to add to their findings a recommendation that the federal government refer the Queensland Sugar Industry Act to the National Competition Council for review.

25 And just finally, on the threshold for examination on foreign investment, we understand the desire to balance benefits from foreign investment against potential risks to Australia's national interest. We agree there needs to be transparency and clarity on the investment framework for Australian agriculture, and we support the threshold being consistent at \$252 million indexed annually and not cumulative.

30 Happy to take questions on these or any points that may have arisen, and we will seek additional information if necessary if we don't have the answers on hand right now, and we can also refer to some specific mill companies for individual answers if the questions are of that nature.

40 **MR LINDWALL:** Well, thank you very much. What do you think the intention of the Choice In Marketing Act is?

45 **MR NOLAN:** It's not clear what the intention of the Act is. The stated policy objectives that are included within the Act talk about providing choice in marketing arrangements. However, in practical effect, it's a partial re-regulation of the marketing arrangements. I think there was a

drive by some involved in the discussion to move back towards a single desk arrangement to the extent possible. Again, that's not what the Act achieves. I don't think it's entirely clear what the intent of that Act is or was.

5

MR LINDWALL: And we've had different testimony today about the effects of the Act in terms of incentives to invest. Would you care to comment on that? When I say - I'm talking about, of course, the millers' incentives to invest.

10

MR NOLAN: Look, to be honest I think across the board this Act is detrimental on intention to invest for growers and for mills. If you look at mill companies - I mean, all of the mill companies have approached the Act as it's been passed, you know, from a different commercial perspective and from a different risk profile, as you would expect.

15

And in considering that, I mean, all of the mills - well, the major impact right now is on those three mill companies that have given notice to QSL and will exit the QSL marketing arrangements by 1 July next year, so if you look at those three mill companies, they are all working to put new commercial arrangements in place.

20

And they're all working - they're all going about it differently, as you would expect. They will, one way or another, find a short-term way around those legislative changes. There is no question that it has put a handbrake on investment, on capital investment, but all of the mills have businesses to run, so all of the mills have continued with their business as usual operations. You know, they've all got cane to process and sugar to make and to sell on the domestic and export market, and they are seeking to continue their normal business operations.

25

30

But there is a direct disincentive there, and there is greater risk in the industry than there was before the legislation was passed. So when you're considering investment decisions, and you're considering it in a higher risk business environment, then the decision to invest becomes more difficult.

35

I don't think it will stop all investment forever, but there is no question that it has inhibited investment, it has delayed some investment decisions, and it is certainly a disincentive. And I think more importantly is it hold back the opportunity for a long-term collaborative approach - I need a bit of water - - -

40

MR LINDWALL: It's a bit of a mouthful.

45

5 **MR NOLAN:** - - - collaborative approach to the business environment that we need in the industry. I mean, there is no question that there is an absolute interdependent relationship between growers and mills, so the only way that this industry can really proceed on a positive long-term basis is if we are working together, you know, for mutual benefit, and I think the legislation that is in place inhibits that relationship, and it sets up a conflict-based approach to the long-term future.

10 **MR LINDWALL:** Why do you think some of the millers are wanting to change the marketing away from QSL? What's the motive there?

15 **MR NOLAN:** The stated intention from the mill companies that have exited QSL is that they believe that they can get a better result for themselves and their growers by marketing outside of QSL.

MR LINDWALL: So they definitely believe the growers would benefit from that?

20 **MR NOLAN:** Without question. I think it's also important to note that, I mean, Australia is the only sugar cane industry in the world where growers have access to the forward pricing tools and the risk management and hedging tools for the sale of their cane that we have in Australia, and that is done and facilitated through the mill companies working with - in some instances with QSL and in other instances separate to QSL, but it's been driven by the mill companies.

30 And there has never been a suggestion by the mills inside QSL or outside of QSL to change access to those sorts of arrangements or to change the existing revenue sharing through the cane payment formula. And so, you know, for more than 99 per cent of the price that growers are paid for their sugar cane, they have access to price risk management tools, you know, to manage their exposure to sugar price as part of these contractual arrangements.

35 So it's - the sugar industry in Australia is, in Australian agriculture, is fairly unique in terms of the transparency and the access to tools and the access to information that can exist between producers and processors as marketers of the product.

40 **MR LINDWALL:** So when, under the current arrangements, a sugar cane farmer sells the cane to the miller - - -

MR NOLAN: Yes.

45 **MR LINDWALL:** - - - and then the miller then either sells it on to QSL

or markets itself, what if a cane grower wished to change the arrangement and said, “I would like to have a contract, and I will continue to own the cane, but you, miller, please go and mill my cane and give me the product of that.” Would that be feasible?

5

MR NOLAN: So I think what you’re talking about is a toll crushing arrangement effectively.

MR LINDWALL: Yes, yes.

10

MR NOLAN: The analysis that mill companies have undertaken would indicate that that would be a very challenging proposition. I don’t think there’s anything that stops that conversation from occurring. But mills - predominantly mills have invested and bought milling assets for the purposes of purchasing sugar cane and turning it into sugar. And the difference with the sugar industry and other industries such as the grains industry is that when you purchase sugar cane it goes through a substantive transformation process to turn it into sugar, into a product that you can sell on the global or even the domestic market. There is no global market for sugar cane. And the capital investment that’s required to go through a process to turn sugar cane into sugar is very significant.

15

20

So the concept of moving to a toll crushing operation, I mean, effectively growers owned sugar mills in many instances, under a cooperative system or as - and in some cases still own sugar mills. So if there was a desire to sort of stay in that link between growing and marketing the sugar, it has previously existed, and there is still that ownership existence between growers and milling assets.

25

So I don’t know what the intent behind a toll crushing type operation would be. I think it would be difficult to make the numbers stack up given the intensity of the capital investment required to own and operate milling assets. I don’t know that the return would be there for growers and mills to embark on that kind of a model, but there is nothing to stop that conversation from occurring prior to the legislation or potentially since the legislation.

30

35

MR LINDWALL: But as far as the millers are concerned, under the current arrangement the property rights are transferred to the miller, and then the miller then has a right to sell the refined cane to the sugar to whoever wishes to, and you’re saying that this Act, the Choice In Marketing Act, actually takes some of those property rights back from - seizes the property rights, is that - - -

40

MR NOLAN: Well, I think there’s no question that the Act creates new

45

rights and gives them to growers that didn't previously exist ever, and it takes some rights away from mills that they previously had.

5 **MR LINDWALL:** And the mills weren't compensated for that removal of rights, I guess?

MR NOLAN: No.

10 **MR BAXTER:** I just would like to see a clarification. QSL I understand is a limited company, and its shareholders are either mills or growers.

MR NOLAN: Mills and growers.

15 **MR BAXTER:** Mills and growers. Do those shares have a tradeable value?

MR NOLAN: They are not shareholders - it is a limited by guarantee company.

20 **MR BAXTER:** It's limited by guarantee, so - - -

MR NOLAN: Yes, so they have members, not shareholders.

25 **MR BAXTER:** Okay. So I see Don sitting here. If I'm Don, I decided I wanted to go into another industry, I can't say, "I've got X hundred shares in QSL," and sell them to somebody else?

30 **MR NOLAN:** Neither mill nor grower as a member of QSL, as a not for profit limited by guarantee company, can take shares or sell shares or have any equity ownership of QSL.

35 **MR BAXTER:** Right. In terms of the actual ownership of the processed sugar, presumably it goes into a series of - either into a single pool or series of defined pools. So let's assume you're the Mackay mill or the Proserpine mill, you've refined a whole lot of cane, you've got 500 tonnes of sugar sitting there ready for, let's say, export. Where does the title to that transfer? Does QSL by some arrangement get the legal power to actually go and offer that sugar for sale internationally or locally for that matter?

40 **MR NOLAN:** So currently my understanding is the title of the sugar, under the current raw sugar supply agreement that the mills have in place with QSL, the title of the sugar transfers to QSL as it's delivered into the warehouse, and then the title for that sugar then when it's exported, when it goes over the ship's rails, transfers once again.

45

MR BAXTER: Yes. So it's exported on an FOB basis for delivery probably on a CIF basis? So is it correct then to presume that from the point of that transfer the QSL's pools carry the risk?

5

MR NOLAN: The pools, I guess, are a separate element. So you're talking about two different things. You're talking about the physical sugar and you're talking about the virtual sugar. So the pools are a range of pricing mechanisms that exist that are run by mills or QSL that growers have the option to enter into, and there's a range of different pool options that are available with different risk characteristics and different pricing options.

10

So a grower will enter into a series of - you know, allocate exposure to a range of different pools, and the mills or QSL manage those pooling arrangements, and then when it comes time for the mills to pay the grower, their net sugar price is calculated on the basis of those range of pooling arrangements that the growers have entered into.

15

There's an underlying harvest pool, which I guess is the risk pool, which is the in-season pool that QSL manages, and that's where the marketing premiums and costs largely are accounted for.

20

MR BAXTER: Now, was that similar to the arrangements that existed when you had a Queensland Sugar Board, and then when you had CSR acting as the, I think, agent for the Queensland Sugar Board?

25

MR NOLAN: Look, when you had the Queensland Sugar Board, you had - all of the sugar was - the ownership of the sugar was vested in QSL when it was - - -

30

MR BAXTER: So that's the significant difference. You had a total vesting of product, as against basically what is almost a consignment?

35

MR NOLAN: You had a vesting of ownership prior - you know, when the industry was deregulated 20 years ago.

MR BAXTER: Yes.

40

MR NOLAN: Since deregulation, that vesting was removed, and we've had voluntary arrangements in place where mills could choose to export their sugar through QSL. Not all mills did, but most mills did, and - but the choice of marketing sugar through QSL was at the discretion of the mills.

45

MR BAXTER: Okay. Well, under the old vesting arrangements the QSB would have carried the total risk from the point of - you know, the point of FOB?

5 **MR NOLAN:** Well, would have carried the risk, and then that risk would have been translated through to the proceeds.

MR BAXTER: Yes, but it would have then come back to the pool as a whole - - -

10

MR NOLAN: Via the proceeds and payments.

MR CRANE: The industry had one result, and I mean, the price for sugar at that time was determined either by some long-term contracts with particular customers, or for sale on the market.

15

MR BAXTER: E.g. the Japanese.

MR CRANE: So it was basically you got what you got with your sugar, and the costs were taken off it, and the returns came to the industry.

20

MR NOLAN: So you just accepted the sugar price that you were given as a grower or a mill based on - you know, on the outcome of the Queensland Sugar Board work.

25

MR BAXTER: So if I read what the growers are proposing, does it mean that the mills and/or the growers who participate in QSL exporting the processed sugar, that QSL carries the risk, and if there are losses or hold ups or the situation that existed when Japan decided not to accept delivery for about three months, that that risk is carried either by QSL as a whole or the pool from which that exported sugar might arise? How is that risk distributed?

30

MR NOLAN: Well, it eventually flows back to the stakeholders, to the millers and growers, that you had testimony earlier today about the 2010 situation where there was a hedging loss by QSL which was tasked back to the industry through the pools.

35

MR CRANE: Because it's a not for profit it doesn't bear the risk of collapse in that sense, I suppose.

40

MR NOLAN: That's right.

MR BAXTER: No, but presumably it carries several pools. Or is it only one pool? So if you produce raw sugar in 2015, you say to the miller, "I

45

want it handled by QSL.” If QSL stuffs up or doesn’t get the best price you thought it would for that particular mill sugar, the loss - or, yes, net loss, if I use the phrase, is carried across the whole of the pool, not by the producer who submitted it?

5

MR NOLAN: On average 99 per cent of the price that is achieved is determined through the ICE Sugar #11 contract, through the futures contract.

10 **MR BAXTER:** Okay.

MR NOLAN: What you’re talking about is the physical marketing premiums and costs.

15 **MR BAXTER:** Yes.

20 **MR NOLAN:** Which in a net sense translates to being, you know, up or down 1 per cent of the overall sugar price outcome. Of those marketing premiums and costs - and that is the element that we’re talking about now - if for example QSL was to undertake certain activities and there were losses such as in 2010, and that’s a cost to the marketing effort, then that cost flows back to - as a cost to the harvest pool in the - to the growers and the mills associated with that.

25 The arrangements that mills outside of QSL would put in place post 2017 around that exposure to that sort of risk to be honest would vary by mill company, by mill company. In the case of some, they would have grower pricing committees who would, you know, be involved in decisions and actions that were taken and there would - and they would
30 certainly be exposed to those sorts of risks. In the case of others, they may well want to - you know, as part of their offering they may want to underwrite some of the risk associated with, you know, major problems in that space.

35 So how that risk was borne would be, you know, an ongoing discussion between the participants, between growers and mills.

40 **MR LINDWALL:** Okay, and as a not for profit, QSL - and an effective monopoly, by these millers, milling companies, deciding to move away with three years’ notice, does that imply in a way that it’s grown a little bit clumsy and it hasn’t been as agile as potential competitors to marketing?

45 **MR NOLAN:** Look, I think certainly the mill companies that gave notice of their intention to exit felt that they - the commercial interests for them and their growers would be better served outside of QSL. They may make

that sort of implication, but I guess that's probably something to ask them directly.

5 **MR LINDWALL:** And QSL wouldn't pay tax as a not for profit, I assume?

MR NOLAN: I don't think they pay income tax. I don't think they are subject to payroll tax. I think they've got some - - -

10 **MR LINDWALL:** Does that give them a competitive advantage in some way?

MR NOLAN: Look, I - my view on those sorts of considerations is that if that's the extent of your commercial advantage then it's - - -

15 **MR LINDWALL:** Tenuous.

MR NOLAN: Yes, tenuous at best.

20 **MR LINDWALL:** Yes, okay. Anything else on the marketing side? We've got a couple more minutes.

MR CRANE: Could I perhaps just suggest a couple of things?

25 **MR LINDWALL:** Yes.

MR CRANE: You've asked a couple of questions today and had some responses around what the expectation or intention of deregulation in 2006 was, particularly in terms of the movement of the voluntary marketing arrangements.

30
At the time there was an industry and government working group that put together the plan to transition, and then adopt voluntary marketing arrangements. Queensland government commissioned the CIE to report on the recommendations of that working group. I think it would be insightful for you to actually look at that report because it was very reflective of the sentiments at the time.

35
MR LINDWALL: I actually know the guy who did it, was Dr - - -

40 **MR CRANE:** (indistinct)

MR LINDWALL: Yes, and Andy Stoeckel from the CIE.

45 **MR CRANE:** That's right, yes.

MR LINDWALL: Yes.

5 **MR CRANE:** The other thing I'd just like to clarify, Commissioner, you pursued some questioning earlier around the choice in the supply chain, and particularly talking about cane transport and where the ownership of that changed. I think it would be useful just to clarify that mills own and operate cane railway systems or trucking systems that transport cane to the mill. Mills fund all of that transport of that product to the mills. They also fund the transport of the sugar to terminals.

10 **MR LINDWALL:** That's a good point. On - I appreciate your support for mandates and renewable energy schemes, but couldn't one argue that's a bit inconsistent? On the one hand you're saying you're concerned about the regulation in terms of the marketing Act, and then on the other hand you're arguing that you should have it in terms of a mandate on biofuel, and the environmental benefits are not entirely clear on that.

15 **MR NOLAN:** I think - well, I think it comes back to those two real considerations around your approach to government intervention and regulation. What's the problem that you're seeking to address? Is it real? And you know, why is government intervention necessary? You know, can you address it through some other mechanism?

20 **MR LINDWALL:** The benefits of the intervention should outweigh the costs?

MR NOLAN: Fundamentally.

25 **MR LINDWALL:** Broadly to the - - -

30 **MR NOLAN:** Broadly speaking the benefits should outweigh the costs, absolutely. So that's not to say that we think that there should never be government intervention in anything on - across the board. I mean, it's not - you know, but you need to run those tests across any sort of intervention.

35 I think a lot of the analysis that has occurred, particularly in recent times, within Australia that looks at environmental benefits associated with biofuels, to be honest I think it's been quite lazy. I think it's focused on looking at other studies that have existed. In particular those studies have looked at corn-based ethanol in the states. There was a report a few years ago that was actually - that was pretty scathing about the biofuels programs that were in place. It based its report on a study that was looking at importing dried casaba for ethanol production in Australia.

5 So there is no question when you look at life-cycle analysis on molasses-based ethanol production that there are significant environmental benefits associated with that product, and you know, when you look at the mandate in Queensland, I mean, a mandate is not a perfect government policy, I accept, and there are pitfalls, and you have got to be aware of those pitfalls, and you have got to be aware of that in implementation.

10 So we've been doing our best, as the biofuels mandate, as the ethanol mandate in Queensland is being developed, to make sure that we understand what has occurred, for example, in New South Wales, what the pitfalls might be, and to learn from that to make sure that there is - so when the program is implemented that there is transparency around it, that the benefits of the mandate are passed through to consumers, and a lot of that is around the will of the government to actually support the program that's in place and the communications program that sits behind it.

20 So it's not a simple exercise, but we think that there can and are benefits that can accrue from an environmental perspective, from a regional development perspective, as well as benefits for consumers through price impacts.

25 **MR LINDWALL:** In terms of biofuels and their ability to be compatible with internal combustion engines, for example, what type of studies have been on that? I mean, is there a maximum level as a percentage of overall fuel which you shouldn't exceed?

30 **MR NOLAN:** Look, it's probably an answer that I can't give the full detailed response to now. I'd be happy to send you some academic papers around it, but the answer is yes, there has been a lot of work that's been done in that space, and a lot - and in fact, you would have to say that the vast majority of vehicles that are sold in Australia today are based on - you know, are sold in other markets around the world where biofuels and biodiesels are part of the standard retail mix.

35 So compatibility of the Australian car fleet, it may have been a question that really needed consideration 10 or 15 years ago. Today it doesn't factor in in the vast majority of cases. But in terms of getting into the technical analysis and detail around that, happy to send you some information around that.

MR LINDWALL: Okay, thank you.

45 **MR BAXTER:** Yes, one very small question.

MR NOLAN: I always get worried when people say that.

5 **MR BAXTER:** Who's the major supplier of sugar to the domestic market?

10 **MR NOLAN:** There's three suppliers of sugar to the - refined sugar in Australia. There's Sugar Australia, which is a joint venture between Mackay Sugar, 25 per cent, and Wilmar, 75 per cent. There's Bundaberg Sugar have got a refinery co-located with their sugar mill in Bundaberg. And New South Wales have got a refinery plant.

15 **MR BAXTER:** And roughly what's the Australian consumption of refined sugar?

MR NOLAN: About a million tonnes of - - -

20 **MR CRANE:** 900,000 to a million tonnes a year, and that's been pretty consistent for a long time.

MR NOLAN: That's consumption of raw sugar equivalent, yes.

25 **MR BAXTER:** Yes, and that price level's comparative with the international price level?

30 **MR NOLAN:** Yes, the interesting thing about the Australian market is that we live and die on the global market. So you can bring raw sugar in or refined sugar into Australia without penalty. So if the refined sugar market goes in the wrong - goes too far outside of the global sugar market price you will just see substitute come in. So it is a globally priced market with premiums and costs.

35 **MR BAXTER:** And is molasses still a consumer product, or has it disappeared as a - - -

40 **MR NOLAN:** I don't know that there's any consumer molasses still in circulation, but I mean, molasses is a significant by-product of the milling product. It's a livestock feed industry, and when we talk about biofuels in Australia, ethanol production right now, that is - in the sugar cane industry, it's all made from the one plant that makes ethanol, it's from molasses.

MR LINDWALL: Okay. Well, we'd better finish it, I think.

45 **MR BAXTER:** All right. No, that's all I had as well.

5 **MR LINDWALL:** Thank you very much for appearing. Now we will break for lunch and resume at 1:30, and this afternoon we have the Australian Food Sovereignty Alliance, followed by Goat Veterinary Consultancies, followed by Queensland Sugar Limited, followed by Tully Sugar Limited, and then there'll be an opportunity for some brief comments from other people who wish to say anything. So 1:30 we'll resume.

10

ADJOURNED

[12.46 pm]

15

RESUMED

[1.31 pm]

20

MR LINDWALL: Would you just mind introducing yourself, telling us about your organisation and what you'd like - just give a bit of an introduction about what you'd like to say today?

MR STRINGER: Yes, okay.

25

MR BAXTER: And Phil, you'll need to speak up. Those microphones only take the transcript, and because of the air conditioning other people are having difficulty in hearing, if you wouldn't mind.

MR STRINGER: Okay. Ready to go?

30

MR LINDWALL: Yes, no, ready, if you're - that's up to you.

35

MR STRINGER: My name's Phil Stringer. I'm here representing the Australian Food Sovereignty Alliance, which is a national body that was formed about five years ago to help small farmers, small and medium farmers, be able to find a place in amongst all the regulations and all the enthusiasm to help really large agribusiness, so we have a lot of small farmers and there's a lot of agro-ecology and regeneration that happens.

40

Most of the farmers are creating more soil, deeper soil and their farms are just continually becoming more productive. Over the last - so we put a submission in earlier in the year. I think at that time we had about 230 or 250 members, and just in the last few months we've doubled that, over doubled that, and we've got over 600 members, and just in the last week we've become a member - we've been accepted as a member of La Via Campesina, which is a global body that represents over 200 million small local farmers and regularly is advising for the food and agriculture

45

organisations.

5 So as of this week we represent them here in Australia here as well, so we were really disappointed with what we heard from - with the draft report and what we saw and how our concerns were essentially dismissed for small farmers. And we believe that you can do a lot better to look at how important small farmers are for local communities and for productivity, and into the future for future decades and future generations.

10 And I think this is the really big concern. I can tell you this is the really big concern of AFSA and all of the farmers and food producers and organisations that we represent is that the Productivity Commission's definition of and understanding of productivity is very small-minded, and you need to be able to broaden that and look down the track in 10, 20, 30
15 more years' time, because our soils are just - are being gradually - the way that we've been farming and managing the land, they're getting worse and worse, and we need to be farming in ways that are - that we can actually, you know, look after our future productivity.

20 So just for a few years of short-term fast gain is no good when, you know, you're going downhill, and in 10, 20, 30, 40, 50, 100 years you've got very little to offer. So this is the big story that we're here to say. We've said it in the initial submission. We've said it in the submission that went in last week, and I'm basically here to reinforce that, because
25 it's just so important.

30 So just to pay attention to some of the quick recommendations that we've been making, we're particularly concerned about the intensive and extensive definitions of animal husbandry. A lot of our farmers are struggling with ridiculous definitions that might be to do with the amount of food that goes into an animal or for instance pig farmers here in Queensland have this definition where you can have 21 standard pig units, and any more than that is intensive, regardless of, you know, the number of acres that you've got. And so we seriously need people to be looking at that.
35

40 What a lot of our farmers are doing, both with chooks and with pigs and with cattle, is rotating them on a very regular basis, often on a daily basis, so for the soil and the pasture, it's allowed a large amount of time to regenerate, and this is where we get really rapid improvement in organic matter and really rapid productivity growth, and at the same time we don't have to deal with all of these extra burdens like pollution and various other things. So that needs to be looked at as is written in our submission.

45 We're happy with the idea of a - you know, looking at animal welfare,

5 we think it's a really valuable tool. Science-based is all very well and good. We would like to see community ethics looked at as well. We don't want to see it dismissed as being something that's a bit wishy washy and can't be nailed down. It's a very important part of how we all relate to food, basically, and so it just needs to be there.

MR LINDWALL: Could I ask a quick question on that?

10 **MR STRINGER:** Yes, yes.

MR LINDWALL: We had testimony from Vegan Australia, and the ambition was to eliminate all use of farm animals or animal production totally within 10 years. ASFA wouldn't agree with that?

15 **MR STRINGER:** No, no, no. Not whatsoever. Yes. We've looked at - we mention genetic modification. One of the concerns that we've got is that the Commission, when it suits, seems to talk about being science based and looking at overseas institutions and regulatory bodies, and when it doesn't, they choose not to.

20 Raw milk is an interesting example. I'm not talking about GM at the moment, obviously. There are many, many states over in the United States that say raw milk is perfectly legal. Much of Europe says that raw milk is perfectly legal.

25 **MR LINDWALL:** Well, we never said anything about raw milk in our report.

30 **MR STRINGER:** I know, I know. But it would be useful if you're going to talk about overseas regulatory bodies and recognising them that we can actually, you know - that you can suggest that on a broader scale as well as just, you know, to do with GM and what seems to suit the big agribusiness, and obviously the lobbyists that are in your ear. Yes.

35 **MR LINDWALL:** But is there something in our report where we said we shouldn't take notice of science, which I think was your statement just now? Because you said we took notice of science when it suited us, which implies we didn't take notice of it when it didn't suit us, so can you point to something in the report where we explicitly did not take account of science?

40 **MR STRINGER:** I'm thinking more of the regulatory bodies, and there's a lot of science for and against genetic modification, you know, which is what I was referring to.

45

MR LINDWALL: Well, we'll get onto that in a second, yes, but if you want to continue, yes.

MR STRINGER: So there's a lot of science for and against it.

5

MR LINDWALL: Well, I have to say that in the testimony that we've received to date on genetic modification from reputable scientists, plus the Office of the Gene Technology Regulatory and international evidence including the US Academies of Science, there isn't arguments on both sides, it's all in the one direction, that it's safe.

10

MR STRINGER: So - and you feel that it's overwhelming?

MR LINDWALL: We do, yes. Well, that's what the testimony provided to us. As I said on a previous occasion, I'm an economist, an ancient historian. I can't tell you what are good articles about journals to do with, you know, GM, but there is a credible science-based organisation called the Office of the Gene Technology Regulator, and it has an international reputation, and it testified in Canberra on Monday, as well as a number of other biochemists, that the literature is overwhelmingly - not just partially, but overwhelmingly in the one direction.

15

20

MR STRINGER: And so you feel that the European Union is wrong to be - - -

25

MR LINDWALL: The European Union too has science in that direction too.

MR STRINGER: Yes, yes, they have science in both directions, yes.

30

MR LINDWALL: Well, I don't know. Anyway, I can't argue the science, I'm just saying that we - - -

MR STRINGER: Okay. Well, the other argument that we have with genetic modification is that - and with a number of the things is that you're talking a very short-term view, and we're saying, look, use the precautionary principle. We - you're talking about science that has only looked at it for a certain number of years. Your brief, and as far as the Productivity Commission is meant to be looking at for our Australian community, is in the long-term, okay?

35

40

MR LINDWALL: I agree. Absolutely. I think Ken and I both agree on that.

45

MR STRINGER: So when - - -

MR LINDWALL: The Office of the Gene Technology Regulator (OGTR) does use a precautionary approach. It said so. It's actually in its legislation too.

5

MR STRINGER: Yes, yes, well - - -

MR LINDWALL: So they claim that it's long-term - - -

10 **MR STRINGER:** So they're claiming that over 50 and 100 years' time it's still going to be perfectly safe.

MR LINDWALL: They say it's - in fact, we've had testimony that it's safer than conventional food or organic food.

15

MR STRINGER: Yes, well, that's - - -

MR LINDWALL: Anyway - - -

20 **MR STRINGER:** They must be very impressed with genetic modification, mustn't they? I don't know who funds them or whatever, but - - -

MR LINDWALL: The Australian government funds them.

25

MR STRINGER: Yes, yes, okay. Okay. So - and so on genetic modification, in 9.1, the recommendation, we totally disagree with the food labelling laws being taken away. We feel people do at least have a right - if you are not only going to take away laws to - moratoria from states to allow genetic modification farming and repeal their legislation that allows them to make those laws, people need to at least be able to know what is in their food and what the makeup is. There is nothing wrong with doing that, and it's - you know, it's our right, pretty much, you know?

30

35 So - and so, yes, 9.1 is about the food regulation and labelling. So we also believe that country of origin should stay there as well. This is supporting Australian agriculture. There are so many people who are interested in buying locally and supporting local Australian foods, and so we'd like to see that continue as well.

40

45 9.3, food safety audits, we really believe that they need to be matched for scale. They - a lot of our farmers are very small farmers and they're paying the same - they're required to do very similar audits to - and be on a very similar time schedule as far as audits go, and so the price per unit is

just ridiculously high. A lot of them just continually end up testing safe, and so we feel that there should be room for some kind of relaxation on those laws, certainly a review and a change into it to recognise the difference in scale.

5

And I think this is where we're talking about going back to the intensive and extensive animal industry. Allowing things to be scale dependent, to be able to support the small-scale farmers, you know, a huge proportion of the world's food is produced by small-scale farmers. It's a bigger proportion than the large agribusiness producers. Of course, the really big business has a lot more shinier machines and they get a lot more attention because it's all, you know, travelling large distances and overseas, and governments get excited seeing large amounts of money changing hands and flowing through there. But the small farmers keep small communities alive, they keep - and they produce the largest - a much larger amount of food than the big noisy operations.

So if you want to talk about productivity, you need to be focusing on both, rather than what seems very apparent in this draft report, that it's really geared to the large-scale producers, so - - -

20

MR LINDWALL: Could I just ask, Phil - - -

MR STRINGER: Yes, yes.

25

MR LINDWALL: I mean, I thought - maybe we didn't stress it enough, but I thought in our draft report we made quite clear that we're very concerned about the regulatory burden on small businesses and we - in fact, I think we said something like small businesses are disproportionately affected by regulations across all areas from environmental, health safety - - -

30

MR STRINGER: Well, yes, you did, but - - -

MR LINDWALL: - - - employment and so on. And surely that shows that we were very concerned about small farmers?

35

MR STRINGER: It's one thing mentioning these topics, but another thing, reading through the recommendations and the inquiries and the - what you've put in the report as far as recommendations - - -

40

MR LINDWALL: I want to make it quite clear that we are very concerned about small farmers.

MR STRINGER: Yes. Well - - -

45

MR LINDWALL: We'd like them to be on a sustainable basis.

5 **MR STRINGER:** Well, I - okay, well, I'm really pleased to hear that. I
want to make it quite clear that in the recommendations, small farmers
don't come off any better than what they were beforehand and that needs
to change, because just mentioning the need for small farmers to have
10 change move towards assisting them is not going to do much, you know?
We could do with recommendations and findings and further enquiries
into it. Yes.

MR LINDWALL: I take your point. I mean, we will be - in our final
report we'll examine with your testimony, especially from the point of
view of small farmers - I think that's fair to say, Ken?

15 **MR BAXTER:** Yes.

MR STRINGER: Yes, okay, excellent, that's good, yes. I should talk
about value of land too. You talk about higher value use, and a
20 landholder's right to veto mining interests, and I'm going to go back to the
same argument, that we need to be looking at the long-term perspective,
and so once again I'm back there.

If a miner comes in and disrupts the water source or, you know, or
25 you get toxic loads on the land or anything, that's a really long-term
perspective that you've lost proper productivity, that you've lost food
security for the region, and that the local community is seriously affected.

Often local communities are seriously impacted by mining companies
30 coming in anyway, but people who have come back from Mackay after
the boom is over up there are saying that the place is just - it's a shell of
what it was. So for when you're talking about the highest value use, just
that, you know, short-term impact from mining is not necessarily the
highest value use when you're talking about a community, and so we're
35 talking about productivity but we're talking about the cumulative impact
of a farming community over generations as compared to a few years of a
mining - you know, or a decade or two of mining.

I found it interesting reading in The Australian - I think it was in the
40 business pages a couple of weeks ago the CEO of Exxon has decided -
they've decided to sell their interest - their oil interests in the Bass Straits,
and I was reading through the pages there, and through that article, and
they're not selling it, they're actually giving it away, they're giving all of
their infrastructure away, so that they don't have to rehabilitate the - you
45 know, what they've done, you know?

5 So it's quite possible that there'll be a small company go, "Oh, yeah, we'll take that," and they'll just go bankrupt when they need to. So - and this can happen at any time, you know, whereas the local farming community is invested in the history and the future and the potential of the region. A lot of these big mining companies will come in and take what they want and walk away and really not be too concerned about the impacts, the further impacts.

10 So that is another important one for us, so I think I've covered all the major topics that I want to be looking at, so - - -

15 **MR LINDWALL:** Well, thank you, Phil. I mean, let me be clear on mining, it is quite clear the law is that mining companies are supposed to restore the land to the ex-ante position, and they're supposed to compensate farmers for the disruption and so forth, and yes, there are examples - in fact, I was involved in a PC report on gas markets, and there are a number of examples of very poor behaviour by some of those resource companies, and that's very disappointing.

20 **MR STRINGER:** Definitely.

MR LINDWALL: And - well, you would hope that we could have a better outcome than that. Certainly that's not satisfactory.

25 **MR STRINGER:** Well, you'd certainly hope so, but - - -

MR LINDWALL: And the same with the magnesium refinery up here in Queensland - - -

30 **MR STRINGER:** Yes.

MR LINDWALL: - - - which you would think that the owner of which should rehabilitate it to the original state.

35 **MR STRINGER:** Yes. Well, you'd certainly hope so, but you know, we need to accept that there are companies who come in and, like I said, they're not invested in the past and the future and the community of the local area. They are invested in making money for their shareholders and being able to step out.

40

45 There is nothing that's important to them except, you know, obeying regulations, so you know - so we need to accept that that's just a fact of life, and that it's important for farmers to be able to veto certain mining ventures, so - - -

MR LINDWALL: Well, we don't agree - the Commission's previously reported about not agreeing to a right of veto. I don't think I'd support that. I support that land owners should be treated fairly - - -

5

MR STRINGER: Yes.

MR LINDWALL: - - - they should be compensated for the damage and disruption that's caused to them, that the property should be restored to its original state after the mining's over, but that's quite different to saying there should be a right of veto, because subsurface minerals and resources are owned by the Crown.

10

MR STRINGER: I recognise that, yes.

15

MR LINDWALL: And giving the right of veto is giving someone an additional property right for which they haven't paid for.

MR STRINGER: I - when you say that they need to be compensated, there are some things that they can't be compensate for, you know? So there are some things that impact their ability to produce that - to such an extent that they walk off the land, so I think it's - I think it's worth further enquiry rather than just the broad-scale.

20

MR LINDWALL: Thank you. I mean, Ken might want to ask some questions.

25

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

MR STRINGER: Yes, okay.

30

MR LINDWALL: Sorry, did you want to make - - -

MR STRINGER: No, no.

35

MR LINDWALL: We might have to agree to disagree on the GM concerns. I mean, I accept the proportionality of small farmers in terms of food safety, but the GM has been proven safe by scientific expertise. I'm in no position to dispute that.

40

MR STRINGER: I see that we can make comments on this hearing.

MR LINDWALL: Yes, yes.

MR STRINGER: But obviously there's no room to comment - well, no,

45

no, I also - you also take information and research that you assemble from other sources. Are you interested in taking information from AFSA or any other groups about - - -

5 **MR LINDWALL:** Yes, you're most welcome to put another submission in, yes.

MR STRINGER: Yes, okay, all right.

10 **MR LINDWALL:** Well, thanks very much, Phil.

MR STRINGER: Okay, thanks, guys.

MR BAXTER: Thanks, Phil.

15

MR LINDWALL: We now move on to Sandra Baxendel, if I'm not mistaken? The Goat and Veterinary Consultancies. That's Sandra. Welcome to you today.

20 **MS BAXENDEL:** Thank you.

MR LINDWALL: Would you like to say your name and organisation and give us a brief introduction of what you'd like to say?

25 **MS BAXENDEL:** Yes, I'm a veterinarian, a goat-only veterinarian, and I'm here representing myself, and - yes. You've got my submission.

MR LINDWALL: Yes.

30 **MR BAXTER:** Yes, thank you.

MS BAXENDEL: So just a bit of my history. I graduated in 1975, 40 years ago, a bit more, and - - -

35 **MR LINDWALL:** We're all fairly netted.

40 **MS BAXENDEL:** But I was always interested in goats. I did my final year essay on goats, and I actually gave the goat lectures to my peers when - in 1975. I did a PhD in goats, but then I mainly worked in agribusiness, universities and government departments. I took a VR from Biosecurity Queensland in 2012. My last role, interestingly enough, was the Director of Product Integrity, and I was the standards officer for Queensland, and so I was responsible for the regulation of agricultural and veterinary chemicals.

45

I've also been on the board of the Australian Pesticides and Veterinary Medicines Authority (APVMA) before it was disbanded for three years, so I do know a lot about the regulation of veterinary chemicals. So do you want me to go through the submissions?

5

MR LINDWALL: Please, yes, yes.

MS BAXENDEL: First of all, congratulations. I thought it was a good discussion paper, and I agree with most things. I'd like to stress animal welfare as an issue. It's an issue for the dairy goat industry in particular, because there's an excess of male dairy goat kids, and there's no easy or cheap way to destroy them. It's not economic to raise them up for meat production, and there's also - anecdotally I've been told that abattoir workers sometimes refuse to slaughter them, because kids sound like babies - - -

10
15

MR LINDWALL: Yes.

MS BAXENDEL: - - - and it's not economical to use - to buy milk to raise kids that aren't selected for meat production. I've tried to interest universities to try and find a solution. They - captive bolt pistols are extremely expensive to buy, and some people don't like having them on farm.

20

I've tried to interest universities to develop something that they similar for piglets, which is a carbon dioxide chamber, but so far without success. So there is no reasonably priced solution for destroying male kids. So a lot of them get given away as pets, which I don't think is in the interest of welfare of a lot of those animals.

25

30

The other issue is pain relief. There are some new medications out now for mulesing sheep lambs and for calves that are getting disbudded, but none of those are registered for goats.

35

MR LINDWALL: This is Meloxicam?

MS BAXENDEL: Meloxicam, yes. And you cannot breed a polled goat to a polled goat, because one in four of those kids approximately will be hermaphrodites, because there is a gene linked from the poll gene to the hermaphrodite gene, and so it's not possible to breed a pure poll breed of goat, it's just one of those unfortunate things, so there is no alternative. They will have to be hot iron disbudded unless the horns are left on, which is not suitable in a dairy or intensive situation.

40

45

It's possible that Meloxicam can be prescribed by veterinary surgeon

5 for use on farm. However, many vets are reluctant to do so because there's a lack of information about withholding periods for those drugs. In America, if I was a vet in America I could download a mobile phone app from the Farm Animal Residue Avoidance Database. I could email them, I could phone them, I could get the withholding period.

10 Vets in Australia, I'd have to do a lot of online research, a lot of literature reading, to develop their own withholding periods. There is no government department or access to any information about correct withholding periods, and so a lot of vets are very cautious, and some of them just say they don't treat goats.

15 **MR LINDWALL:** Even though the animal welfare consequences are much harsher?

20 **MS BAXENDEL:** That's correct. So I'd like to spend some time on looking at veterinary medicines for minor species, particularly goats. Minor use permits, which is mentioned in your draft, is not really a solution. If you look on the APVMA database you will find that there are only two permits for goats. One is for sheep and goats for foot rot and one is for - put in by the government for foot and mouth disease.

25 So minor use permits are not going to solve the problem. Also because the APVMA has now gone online submissions, and the goat organisations are all volunteers, none of them have any training and would be totally unable to use the online portal to start a registration process.

30 Also, there's some concerns about holding the minor use permits. Growcom, for example, holds most of the horticulture minor use permits, because Horticulture Australia Board didn't want to hold them because of liability issues.

35 So I don't think minor use permits, even though it's mentioned in your draft report, is going to be a solution.

MR LINDWALL: That's handy for us to know, yes.

40 **MS BAXENDEL:** Yes. So bearing in mind I used to work for the government, I know you're interested in solutions, so I have a couple for you, or several. Extra data protection for each additional minor species, or indeed minor crop, so that they can have an extra year of data protection to the intellectual property before it's released, would help. That would encourage them to add minor species to the label.

45 The other requirement which I think could be lapsed for minor

species, and that is good laboratory practice, accreditation of the laboratory that's going to do residue surveys - residue research. And for those that don't know what good laboratory practice is, it's basically a QA scheme that goes out on farms where the trials are done and goes all the way back to the chemical residue laboratory that does the residue testing.

I'm in favour of having only (National Association of Testing Authorities, Australia (NATA) accredited chemical residue laboratories do the work in the lab, but I actually see no need to have that additional good laboratory practice going back on farm, especially if the trials are done by university or a government department with no vested interest in the results, and if you look at the situation in America, their research for my use, residue information, is all done on their land grant universities, and they have no requirements for good laboratory practice. There is only a handful of laboratories in Australia that have good laboratory practice, and they're often booked out years in advance.

So they're two solutions. The additional solution that I would like to promote was that we look at New Zealand. New Zealand has what they consider the agricultural and veterinary chemical registration system that New Zealand can afford. It's not as strict as Australia, but we could piggyback on that and if, for example, goat medicines are used in New Zealand for five years and there has been no residue problem, then I think that should have an automatic registration in Australia, and a good example is Zolvix, which is an anthelmintic used in sheep. It was registered in goats five years ago in New Zealand. The dose rate is 1.5 times the sheep dose rate, because goats metabolise all drugs, generally, a lot faster than sheep, and there's been no problems with Zolvix residues being found in any New Zealand goat meat or milk products, and they have a very large dairy goat milk industry in New Zealand, and yet Zolvix is still not registered in Australia for goats.

It is - anyone - any goat breeder can purchase it online, they can walk into an Elders or Wesfarmers and buy it off the shelf. They then use it at the wrong dose rate, they use it at the sheep dose rate, which just encourages resistance.

MR LINDWALL: Of course, yes, yes.

MS BAXENDEL: Yes. By not having it on the label at the correct dose rate, we're just going to be in a situation in the goat industry which will then transfer to the sheep industry, because the - when the goat worms become resistant to Zolvix they'll transfer into sheep.

MR LINDWALL: That's a good point, yes.

5 **MS BAXENDEL:** Yes. If the vet - if the goat owner is in Victoria they can walk into any Elders or Wesfarmers and purchase that; not only purchase it, they can legally use it on farm without a vet's prescription, but the Victorian legislation says it must be used at the label dose rate, which again is less than what it should be.

10 So I think if a veterinary chemical is registered in New Zealand for five years, there's been no problems, it's not under review, it should be automatically registered in Australia. I do recognise that new legislation and the new APVMA operational and business plans all state they're going to use more overseas data, but that's not going to help the goat or minor livestock industries because overseas it is the same global problem. They do not have access to registered chemicals. And Australia's probably got more - no, actually, we've still got less. But there are some worm drenches in America that are registered for goats that are not registered here.

20 So the other solution which I am promoting is that in the UK they have guidance notes, and they have a suggested withholding period for minor species where there is no known withholding period, and that's seven days for milk and 28 days for meat. At the moment there is none.

25 Now, I should explain that there are three systems for determining a minor residue limit. So there's the APVMA set one, then the FSANZ set one, and there is a delay of - even though it's now - it used to be over two years. It's now down to about six months. But there is a delay period where it's legal if you've got a minor use permit or an emergency permit, perfectly legal to use that veterinary medicine on a minor use species, but it's not legal to sell the product of those livestock for another six months.

30 **MR LINDWALL:** Six months, yes.

35 **MS BAXENDEL:** And that is until the Food Safety Authority Australia New Zealand (FSANZ), who use exactly the same models as the APVMA, set their residue limit. As I said, it has improved. It used to be over two years because it had to go to ministerial council. Now it's six months, but to me that's ridiculous.

40 **MR LINDWALL:** You'd say typically it'd be 21 days or 30 - - -

45 **MS BAXENDEL:** Yes. Well, yes. They're using the same models. It should just be automatic, I would have thought. The APVMA use the Office of Chemical Safety to help register the chemicals and help set the MRL, and the Office of Chemical Safety is in the Department of Health,

who oversees FSANZ. Doesn't make much sense to me.

5 And then there is a third level of maximum residue limits (MRL) setting, and that's CODEX, which is the international system, which not everyone uses. But it is an international system. So New Zealand has a default MRL, which I think is too high. It was set over probably 20, 30 years ago, and that is 0.1 milligrams per kilogram. I believe that's too high. But we could easy go 0.01 milligrams per kilogram.

10 Because in that six months period, and as a regulator I was involved in this, in that six months period where you have an emergency permit, it's legal to use it to save the animals, but it's not legal to sell the meat or the milk or the fish.

15 **MR LINDWALL:** Which rather defeats the purpose.

MS BAXENDEL: Which defeats the purpose. But if there was a default MRL then you can actually do it. Because when there is no default MRL then the Health Department demands zero, and laboratories now can go
20 down to parts per billion and it's virtually impossible to get a zero, so we need some sort of level.

MR LINDWALL: It's a bit like our gluten minimum that we recommended in the report.

25 **MS BAXENDEL:** Yes. So I actually did promote this, and we did have some early meetings between the Product Safety and Integrity Committee and the FSANZ, and I suggested if there was no APVMA MRL, no FSANZ MRL, then we could go to CODEX. If there was no CODEX, then we could go to America. If there was no America, we could go to
30 Europe, and then if there was no Europe we could go to a default.

The health authorities were very, very nervous of having a default MRL. But I think that cascade would actually work, and there are cases -
35 I knew of a situation with strawberries where there was a new disease, they needed a new fungicide, they got it registered, but then because there was no food MRL approved by FSANZ, Woolworths and Coles wouldn't buy it. So they lost their strawberries.

40 **MR LINDWALL:** Yes.

MS BAXENDEL: So the other thing which I would strongly recommend is that currently where a vet can prescribe, in a lot of cases, but if there is a "do not use" statement on the label, so "do not use in goats" or "do not use
45 in dairy goats" or "do not use in goats, milk used for human

consumption”, then a vet cannot override and cannot prescribe. And so a vet is in a situation where, because of information in textbooks and references I know that that drug would work and save the goat, but because of the “do not use” statement, I cannot do it.

5

And that is ridiculous. The control of use legislation allows you to choose one goat in the herd and save that one goat. You can’t use it on more than one. And that is totally ridiculous and against any basic animal welfare constraints.

10

So I would suggest that unless - and there are some cases such as don’t use aspirin in cats, because it kills them; don’t use Romensen in horses, because it will kill them. There are certain cases where there are some strong “do not use” statements, but veterinary chemicals - and I can see this as chemical labels are being renewed, I can see it more and more, they are just putting it on because they don’t want it used in minor species, they’re not a commercially viable market for them, they’re just a potential liability problem if they’ve got residues that are picked up in an overseas market. So they put a “do not use” statement on it.

15

20

MR LINDWALL: Risk aversion.

MS BAXENDEL: And this is just tying the hands of veterinary surgeons who would prescribe them otherwise.

25

MR BAXTER: Can I just ask the question, in parts of western New South Wales and parts of Victoria - parts of Queensland, and I think also parts of WA, there are large populations of feral goats. And in the last decade there have been quite deliberate programs sponsored by state governments and farm organisations to corral these goats and export them, usually in slaughtered form.

30

MS BAXENDEL: Yes, record prices.

35

MR BAXTER: At record prices. Now, is the application of this chemical to these goats applicable?

MS BAXENDEL: It’s not applicable for the majority of these goats, because they’re basically just captured and sent straight to the meat works. But I’m currently involved in a trial in an advisory capacity, Meat and Livestock Australia are looking at little goats, little feral goats which don’t meet the minimum weight - - -

40

MR BAXTER: Yes.

45

MS BAXENDEL: - - - and they're being grown on. And you have to prescribe a veterinary prescription, because the livestock production assurance scheme requires a veterinary prescription, and I can prescribe lice treatments and worm drench treatments for these goats.

5

But my concern is I can see this trend of "do not" statements being put on these, and there's going to come a time, unless something is done, when I'm going to have to say, "Sorry, legally I cannot do this." Yes. Which is ridiculous, because they can go down to Elders and Wesfarmers to buy it themselves.

10

MR BAXTER: Yes, yes, yes.

MS BAXENDEL: Yes. I did a search this morning for lice products, which brings me to lice products. There are 75 different liceicides for sheep as of this morning when I did my search, and they are in a range of different families. For goats, if you put in goats and lice, you get two.

15

MR BAXTER: Two.

20

MS BAXENDEL: You get a powder, which is a Pestene powder which does chooks, goats, sheep, virtually everything, and you get Clout S, which is difficult to buy commercially. I've been told by trial participants that they can't access it, can't buy it, which means - and of these two liceicides, none are registered for dairy goats. So theoretically someone with lice in their dairy goat herds, and bearing in mind Victoria they're setting up very large commercial dairy goat herds, 10,000 goats on one of them, are they supposed to get out there with a lice comb and comb all the lice out? I mean, it's ridiculous.

25

30

MR BAXTER: It is, yes.

MS BAXENDEL: So yes, it is getting to the situation is, I am a veterinary surgeon, I deal only in goats, and soon I'm not going to have any tools.

35

MR BAXTER: Could I ask - well, your experience with the APVMA, what's the resistance to change that might liberalise it to some extent and make it more reasonable?

40

MS BAXENDEL: I was only - the board was only advisory. They are funded totally by the veterinary chemical and agricultural chemical manufacturers. It's actually - their remit stops, their regulatory responsibility stops, at the point of sale. It's actually all the states that are responsible for control of use on farms. So they have a lot of other

45

pressing problems, and so even though I was on the advisory board and did raise the issue, there were other pressing problems that took their priority.

5 **MR LINDWALL:** Yes. It's disappointing. I mean, some of those examples you've given are terrible animal welfare practices - not practices, but being able to prevent terrible practices.

MR BAXTER: Well, limitations.

10

MS BAXENDEL: Yes. I've been putting in submissions for - probably ever since I retired from government, and they're all on my website if you wanted to have a look. Can I go on now to miniature goats?

15 **MR LINDWALL:** Please, yes, yes.

MS BAXENDEL: And this is another solution which is possible for you. Miniature goats are growing in popularity. Recently pygmy and African Dwarf Goats were introduced into Australia through - from America, mainly through semen. These little goats are 17 inches to 23 inches high. That's part of their breed standard.

20

MR LINDWALL: They are small.

25 **MS BAXENDEL:** They are very small. You know, pygmy and dwarf being in their names, and miniature is their breed society. These goats are not going to go on a commercial meat chain. They are not going to be a commercial dairy goat chain.

30 **MR LINDWALL:** No.

MS BAXENDEL: My advice to you is to call these animals, miniature goats, companion animals, and companion animals have low regulatory evidence requirements. So if you want to register something for dog and cats you don't have to do residue studies. So this would again be another potential solution. The other thing which I wanted - - -

35

MR LINDWALL: So what would they ask about the - why are people importing them? For companion animal purposes?

40

MS BAXENDEL: Yes.

MR LINDWALL: Basically, yes.

45 **MS BAXENDEL:** I mean, these little goats sell for \$2,000 a head.

MR LINDWALL: What?

MS BAXENDEL: Yes. So you know - - -

5

MR LINDWALL: (indistinct)

MS BAXENDEL: So you know, they are very well-loved.

10

MR LINDWALL: Yes.

MS BAXENDEL: They have 200 people turn up at goat shows, or miniature goat shows, all in fancy dress. These are pets.

15

MR LINDWALL: Okay. Well, that's an easy solution.

MS BAXENDEL: Yes. For the miniature goats, anyway.

MR LINDWALL: Yes. Of course, yes.

20

MS BAXENDEL: But yes, and I just wanted to re-stress that unless something is done then goat breeders cannot use quarantine drenches. The new drenches - if you look on the ParaBoss website and look at the sheep recommendations, when you buy a new mob of sheep you have to drench with, they say, all four families, including one of the newer registered drugs like Zolvix. You can't do that with goats. There are only two drench families registered for goats. So this again is going to have another worm resistance build-up in the goat population, because we can't use it for quarantine drench as is recommended for sheep.

25

30

The other thing I would like to stress is that you'll see as the appendix, because I work in different states I have to prescribe - and you'll see the difference in the prescription forms that are required in each state. Fortunately, Queensland has the most requirements, so I can use my Queensland form in any state. But every state is different, and that is just ridiculous.

35

Some of the things that they need - like Queensland requires the APVMA number. It requires the active drug name as well as the brand name. So - it requires the expiry date. It just doesn't make any - - -

40

MR LINDWALL: And this is not on a prescription that would be given to us for - by a doctor?

45

MS BAXENDEL: That's right. I believe that only the information that a

doctor's prescription has should be required for a veterinary prescription. Just change the name of the patient.

5 **MR LINDWALL:** Yes.

MS BAXENDEL: Because all this information is on the website. Once you have the name of the active drug, just go and look it up.

10 **MR LINDWALL:** Yes.

MS BAXENDEL: And the APVMA now have an iPhone app so you can look at it on your iPhone, so just need to get into the current day.

15 **MR LINDWALL:** Indeed, yes.

MS BAXENDEL: So that's basically - - -

MR LINDWALL: Okay. Could I ask a couple of questions?

20 **MS BAXENDEL:** Yes.

MR LINDWALL: Why is it that there's - in breeding goats there are more males than females over a significant period, by the look of it, by what you're saying? End up with more males. Is that - - -

25 **MS BAXENDEL:** No, they - it's just that if you look at the dairy calf situation, a dairy cow has one calf. A dairy goat might have two, three, four kids, yes.

30 **MR LINDWALL:** Okay. Well, that's (indistinct). And in terms of the increasing data protection with an extra year, was one of your options - - -

MS BAXENDEL: Yes.

35 **MR LINDWALL:** - - - would that have much of a price impact?

MS BAXENDEL: It's potentially a price impact, because generics are slightly cheaper.

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

MS BAXENDEL: Yes. But that's got to be balanced against the ability to access drugs for minor species. It's not just goats, it's also things like alpacas and fish and various other minor livestock.

45

MR LINDWALL: I think - I can't think of any more questions, as you were so thorough in your enunciation of all the issues - - -

MS BAXENDEL: Thank you.

5

MR LINDWALL: - - - and it seems quite clear that there are some amazing differences here between Australia and overseas countries in terms of use requirements - - -

10 **MS BAXENDEL:** I'd have to say that no - - -

MR LINDWALL: - - - and residues and so on, yes.

15 **MS BAXENDEL:** Apart from UK having their withdrawal period as a bench line, as a guidance note, they suffer from problems as well.

MR LINDWALL: Of course, yes. Well, thank you very much for appearing.

20 **MR BAXTER:** Yes, thanks very much indeed.

MR LINDWALL: Now we've got Greg Beashel from Queensland Sugar Limited. Greg. Good afternoon. Would you just say the name and organisation and a bit about QSL and also whatever else you would like to say to us?

25

MR BEASHEL: Yes, I've got about five minutes of preliminary address, then I'll be very happy to answer any questions you might have. Thank you for the opportunity to provide feedback on the Productivity Commission draft report on the regulation of agriculture. My name is Greg Beashel, and I am the CEO and managing director with Queensland Sugar Limited, a not for profit company whose members comprise each of the Queensland mill owners and representatives of Queensland cane growers.

30

We are currently the entity responsible for marketing to export customers the majority of raw sugar produced in Queensland, and operating the six bulk sugar terminals used for storage and handling of all raw sugar produced in Queensland.

35

QSL has a constitutional objective of promoting the sugar industry in Queensland and maximising returns to members, and as such, seeks to ensure fair, transparent and competitive outcomes in respect of raw sugar marketing. That includes growers being able to freely choose QSL to continue to market raw sugar on their behalf, and millers being able to

40

45

ensure a fair return on their investment.

5 I'd like to begin my remarks here today by clearly stating that QSL respectfully opposes the Commission's recommendation that sugar marketing legislation passed in December 2015 be repealed on the basis that we believe such an action would effectively prevent competition for raw sugar marketing services for many Queensland growers and have a significant detrimental effect on the industry we serve.

10 Only in the circumstance where competitive sugar marketing arrangements not reliant on legislation are put in place in all sugar-producing regions could QSL support the repeal of the legislation. We believe the Sugar Industry Amendment Act promotes competition in raw sugar marketing in Queensland by enabling choice in what is a monopsony market for the majority of the sugar producing regions of the state.

20 QSL has made a submission to the inquiry regarding the Commission's draft report, and so I will not go through the full details of that here. However, I'd like to touch on the key issues behind our position on this matter.

25 So since our industry deregulation in 2006, QSL has worked with Queensland millers to facilitate marketing competition within the changing Queensland sugar industry, including reworking our raw sugar supply agreement with the state's seven mill owner members in 2013 to provide them with the ability to market their supplier economic interest sugar.

30 The option for a mill owner to market its supplier economic interest sugar has subsequently been exercised by Wilmar, MSF Sugar, Mackay Sugar, Tully Sugar and Isis Central Milling Company. However, until the implementation of the marketing choice legislation, growers had no avenue to choose which marketing entity managed their economic interest in sugar. That is the sugar that is used to determine how much the grower is eventually paid for the cane they supply.

40 QSL believes that the extension of marketing choice to growers at a retail level is a natural progression of the industry deregulation already successfully accessed by sugar milling companies. To deny growers access to this same choice regarding how their returns are generated would seem at odds with wider efforts to promote competition within our industry.

45 Reassurances that growers will receive comprehensive information

5 regarding their miller's marketing performance we see are of no practical
consequence if the grower has no alternate provider should they
subsequently deem that that marketing performance is unsatisfactory.
Claims that one marketer can somehow innately generate higher returns
10 than others have already been tested and found to be unsubstantiated, most
recently with Wilmar's 2015 pool, which despite having unlimited pricing
discretion was outperformed by six of the seven QSL pools available
during that same period, with its final result equalling that of QSL's
lowest performing pool, the harvest pool, where the primary function is
15 management of production risk rather than maximising returns.

Of course, this particular result does not mean that QSL will always
outperform other marketers, but it serves as a reminder that the inherent
superior performance of one marketer over another can never be
15 guaranteed or assumed, regardless of a marketer's claims or reassurances.
A competitive market for such services as underpinned by the new
legislation is the ultimate test of performance, determination of success
and subsequent driver for wider innovation and industry efficiencies.

20 In closing I would like to point out that suggestions that the new
legislation would somehow inhibited investment or innovation in the
Queensland sugar industry have not been borne out in practice. We have
seen some contrary things to date with competition between millers and
QSL for the provision of marketing services to Queensland cane growers
25 in 2017 season already leading to innovations in both grower pricing
products and payment options.

Queensland cane growers and sugar millers are already highly
exposed to international competition every day, and so to deny their
30 access to competition for marketing services would seem at odds with the
intent of the wider deregulation process.

QSL firmly believes the repeal of the Sugar Industry Amendment Act
would stifle this competitiveness within the marketing sector to the
35 detriment of Queensland cane growers and the wider industry. Thank
you.

MR LINDWALL: Thank you very much. Did you want to start, Ken?

40 **MR BAXTER:** A question of sort of structure and fact at the moment.
Does QSL have either direct or residual compulsory acquisition powers?

MR BEASHEL: No.

45 **MR BAXTER:** Right.

MR BEASHEL: That ceased in 2006 with the industry deregulation.

5 **MR BAXTER:** So at the sort of end of the line you can't turn around and issue a notice requiring all the mills to deliver any amount of sugar to you?

10 **MR BEASHEL:** Only to the extent that that sugar is commercially contracted to us. So when I mentioned in my opening - - -

MR BAXTER: Well, yes, sorry, over and above any contractual arrangements.

15 **MR BEASHEL:** No.

MR BAXTER: I mean, there seem to be two elements that - if you have a contract with, let's say, miller A, he's delaying on the delivery of sugar to you or the dispatch of sugar, you've got the right to seek performance of that contract.

20 **MR BEASHEL:** That's right, yes.

25 **MR BAXTER:** But you haven't got the residual power of being able to turn around and say, "Well, I'm waving a piece of government legislation and I'm using section X and I'm acquiring all that sugar."

MR BEASHEL: No, that changed 10 years ago in 2006.

30 **MR BAXTER:** So that's definitely gone? Yes.

MR BEASHEL: Yes.

35 **MR LINDWALL:** I assume this is historical, but Queensland Sugar Limited, it's a company limited by guarantee.

MR BEASHEL: Yes.

40 **MR LINDWALL:** It could - and a not for profit. It could hypothetically have been a company where the shareholders are the growers and the millers and you pay dividends to them. Was there any particular reason it was structured as it is?

45 **MR BEASHEL:** I'm not aware of what the reasoning was. I'm assuming that the people who set up QSL were looking to set it up in the way that made it most attractive to them, so they chose the company

limited by guarantee structure.

5 **MR LINDWALL:** And when you're talking about achieving higher pool prices, of course the other side of the equation are your costs in doing the marketing and so forth. How is that taken into account?

MR BEASHEL: Our prices are net with our costs.

10 **MR LINDWALL:** Net.

MR BEASHEL: So typically the prices are quoted as the gross price, and then a shared pool deduction that includes the other costs and revenues outside of the futures component of the price.

15 Now, whilst the net of that sum of the other costs and revenues is typically plus or minus \$5 a tonne out of a \$500 sugar price, there are significant individual costs and individual revenue items. I think if you add them all up you get to something like \$100 million. So we don't support some of the assertions that are made that that's not important.
20 You hedge the futures price, and that's all you have to worry about, because that's 99 per cent of the net price. We put that those other things, if you don't get them right, you can end up with a much different result than a few dollars either side of zero.

25 **MR BAXTER:** Can I just take that a few steps further?

MR BEASHEL: Yes, sure.

30 **MR BAXTER:** As a company limited by guarantee, are you able to keep retained earnings?

MR BEASHEL: Yes.

35 **MR BAXTER:** So that if you've got an anticipation that the sugar market might - or parts of the sugar market, or a customer might be drifting in a particular direction, you're able to hold back proceeds from sale as retained earnings to make sure that you're able to cover any position.

40 **MR BEASHEL:** Only to the extent that those obligations are not already guaranteed in a commercial contract. You know, of course the people who want us to provide marketing services to them are interested in getting the highest return back that they can so, you know, QSL retained earnings is something that we try not to have unless we really see a really
45 good reason to have it.

MR BAXTER: Yes, but you've got a capacity to do that?

MR BEASHEL: We've got a capacity to have retained earnings, yes.

5

MR BAXTER: If you can - I mean, you can look back over the history of the sugar industry, and there's been occasions when even under the old arrangements of the Queensland Sugar Board there'd be market situations where they may have decided to hold back funds in anticipation of having to make some alternative arrangements, an example being when a number of the ships were held up in Yokohama Harbour and negotiations had to take place between the Australian and the Japanese government to get release of those ships which were filled with sugar.

10

15

Now, presumably there'd be a point reached where if those negotiations had not been successful your predecessors would have had to say, well, the point's been reached, we may have to divert those ships and cargoes elsewhere.

20

MR BEASHEL: Yes, yes, of course, those decisions would need to be made. Typically those things would be handled via our pre-payment, or what we call our advances scheme, where we can slow that down or speed it up based on our forecast of what's happening in the market and what has actually happened.

25

MR BAXTER: Right. So if you started to sense something like that happening, you'd actually go to the mill or the growers and say, "Look, we're a bit nervous about what's occurring in market X, there's a lot of signs that are suggesting we may have some problems, we'll either reduce the preliminary payment to you, or we'll hold reserves."

30

MR BEASHEL: Typically not hold reserves, but we would reduce the rate of payments, or reduce the price forecast.

35

MR BAXTER: And that would be across the board, to all suppliers to QSL, or only to the supplying mill?

40

MR BEASHEL: It would be just for those who were impacted by it. So it would really depend on what the problem was and who was exposed to that problem.

MR LINDWALL: So what about - can you borrow money?

MR BEASHEL: Yes.

45

MR LINDWALL: And what's the situation to make sure you're continuing to be, well, liquid and solvent over the long period?

5 **MR BEASHEL:** Well, that's the directors' obligation of QSL. So we borrow funds and we run what we call an advances scheme. Typically we pay for sugar before we're paid for it by customers. We rely on owning the inventory to do that, and we have funding arrangements in place and the industry relies on those funds coming from us, or in the future some of our competitors, to be financed.

10 **MR LINDWALL:** What if you had cause for a major capital acquisition or capital investment somewhere? Would you have to get through further injection of capital from your members, or how would that be achieved?

15 **MR BEASHEL:** There would be a variety of ways of doing it. So typically we would just buy that capital on a debt funding basis and charge it out to our clients over time.

20 **MR LINDWALL:** Okay. And in practice, how many Queensland growers choose another marketing company other than QSL? In Queensland, that is?

25 **MR BEASHEL:** Well, none at the moment, because there's no choice arrangements actually in place, so hence our position that this legislation is needed at least so those arrangements can be put in place, and then we say that we would only support the repeal if those arrangements were not reliant on the legislation to continue.

30 **MR LINDWALL:** So you're happy not to be a monopoly provider of marketing services?

MR BEASHEL: We've been happy with that since 2006. We've in fact asked for the deregulation in 2006, and we've had that position since then.

35 **MR LINDWALL:** A bit of competition in marketing might spur innovation and so forth? Keep you on your toes?

40 **MR BEASHEL:** Yes. Well, as I pointed out in our submission, that's already happened. It was able to happen since 2006. Most of the sugar's contracted to us until the end of the 2016 season. This competitive environment we're talking about we hope will start in the 2017 season.

MR LINDWALL: Anything else?

45 **MR BAXTER:** No, I've got - when did the Queensland Sugar Board

hand over to you people?

5 **MR BEASHEL:** The Queensland Sugar Board didn't hand over to us. So there was a sugar board in place, and then, as I understand it, some of this well before my time, they were taken over by the Queensland Sugar Corporation, who had a contract with CSR Raw Sugar Marketing to do the export marketing, and then effectively the Queensland Sugar Corporation and CSR Raw Sugar Marketing merged, and QSL was formed in 2000.

10 **MR BAXTER:** So CSR has basically removed itself out of this?

15 **MR BEASHEL:** Yes, so CSR agreed - they had a contract with Queensland Sugar Corporation that finished in 2000. I used to work at CSR Raw Sugar Marketing, so I'm very familiar with the arrangement. But effectively some of the staff from CSR Raw Sugar Marketing and Queensland Sugar Corporation went to this new company, Queensland Sugar Limited, that was made up of all the industry representatives, and that all started in 2000.

20 **MR BAXTER:** And from a governance point of view, who elects or appoints the directors of QSL?

25 **MR BEASHEL:** There's a board selection committee, and that's elected by the miller and the grower members of QSL.

MR BAXTER: So what, one vote each or something?

30 **MR BEASHEL:** The mills have a vote in proportion to their supplied tonnage to QSL, and the growers is one representative for each milling region. There's some complication around the mill voting, because when Wilmar purchased Sucraga, one of the conditions of that purchase, as I understand it, made by the Foreign Investment Review Board, was that they would lose most of their voting rights in QSL if they no longer participated in QSL's raw sugar supply contract. So that impacts on the board selection committee place, for instance. Wilmar and the other mills that have given notice to QSL under the sugar supply arrangements are not allowed to vote for the election of directors as things are standing now.

40 **MR LINDWALL:** Is there anything you can - do you sell any - market any sugar - raw sugar from New South Wales, or - on a voluntary basis?

MR BEASHEL: We buy sugar from New South Wales from time to time to export, but we have no current arrangements in place with them.

45 **MR LINDWALL:** And is there anything you can say about ports and

shipping generally in Australia and labour market laws or the operation of ports and their efficiency and so forth? Regulatory issues, since we're looking broadly at regulatory issues affecting agriculture, of course.

5 **MR BAXTER:** Well, can I just intervene? We have specifically recommended that cabotage should be removed, and knowing that Queensland ports stretch up and down from basically Maclaren - or I suppose it's Brisbane to Cairns, what's the view about cabotage?

10 **MR BEASHEL:** QSL only does export shipping. We're not involved in domestic shipping.

15 **MR BAXTER:** But let me - let's say you were sending off a couple of containers and you loaded them in, let's say, Mackay for trans-shipment in Brisbane, if that was a coastal ship taking that traffic you'd be charged about four to five times what it would do if it was an international vessel.

20 **MR BEASHEL:** If we did that, we'd want to pay the most competitive rate for it, but that's not something that we - - -

MR LINDWALL: So you're always going straight - - -

MR BEASHEL: We're exporting.

25 **MR LINDWALL:** There's no coastal shipping.

MR BEASHEL: Yes.

30 **MR LINDWALL:** I mean, I could imagine what Ken is asking is that you could fill up partly - the ship, I take it, would - not containers, is it? It'd be just a bulk ship.

MR BEASHEL: A ship can two-port load - - -

35 **MR LINDWALL:** Two-port load.

40 **MR BEASHEL:** - - - and export arrangements apply to that. That's not a domestic carriage. But I support what you're saying, though. There could be circumstances that you could imagine with cyclones taking a port out and sugar having to be sent in small vessels from one sugar terminal to the next.

MR BAXTER: Well, you export to PNG, don't you?

45 **MR BEASHEL:** No.

MR BAXTER: Or has that stopped?

5 **MR BEASHEL:** No, PNG is not an export market for sugar. Most of it goes to Indonesia, Japan, Korea, Malaysia, nearby Asian markets, but not PNG.

MR BAXTER: And New Zealand?

10 **MR BEASHEL:** Yes, some sugar exported to New Zealand.

MR BAXTER: And does that go as bulk, or is it containerised?

15 **MR BEASHEL:** The raw sugar we sells goes in bulk shipments. There is some sugar sold in containers, though, imported and exported from Australia.

MR LINDWALL: So any comments about our port efficiency, then?

20 **MR BEASHEL:** QSL runs the sugar ports.

MR LINDWALL: Yes, so you have total control over them?

25 **MR BEASHEL:** Yes, so we believe they run very efficiently. We do benchmarking about our performance of the ports. Ships typically turn around within a day. Port congestion is very low. It's one of our competitive advantages compared with, for instance, Brazil, where you know, there can be 30 to 60 day line-ups to load a sugar ship in Brazil. We don't have that problem here.

30 **MR BAXTER:** And is the MUA the union on your ports?

35 **MR BEASHEL:** No. We're represented at our ports - our staff are members of AWU, AMWU and the ETU. You must remember that loading ships is a very small part of the tasks that they do. They're mainly involved in maintenance tasks at the terminals.

MR BAXTER: Okay.

40 **MR BEASHEL:** So typically we're very highly automated at our ports, and there is approximately 120 staff running the six ports. That's got about 2.6 million tonnes of storage capacity, rail and road receipt, and very efficient ship loading.

45 **MR LINDWALL:** Is there anything about - are you prohibited or are

you allowed to buy a mill and own a mill and operate a mill?

5 **MR BEASHEL:** Our constitution is pretty broad. It basically says, if I can summarise it, we need to act in the best interests of the sugar industry. As you can imagine, and you've probably heard here today, there's sometimes quite some debate about what that means.

MR LINDWALL: Yes, yes.

10 **MR BEASHEL:** But yes, owning a mill is something that as a director of QSL I wouldn't support doing, but it could be argued that under our constitution we could do it if we wanted to, yes.

15 **MR LINDWALL:** Yes. Obviously it would be a major change in your business model.

MR BEASHEL: Yes.

20 **MR LINDWALL:** And if the current arrangements involve only QSL as a marketer, wouldn't you say that the arrival of Wilmar in 2010 is effectively the introduction of competition into that market, in the marketing area?

25 **MR BEASHEL:** No, because as early as 2006 two milling companies chose not to be contracted to QSL, but from 2006 until now QSL was the marketer for the vast majority of sugar, and there was a small amount that was marketed outside of our system. The arrangement was voluntary from 2006, but the arrival of Wilmar and some other companies who had trading capabilities, the competition got much stronger, the tonnage
30 potentially outside the QSL system is much larger.

In fact, when I said that we changed our arrangements back - I think it was in 2013 to allow milling companies to market their economic interest in the sugar, we in fact had that sugar contracted for another three years in
35 the future, and could have insisted that we market it all, but we took the view that they're keeping the revenue and they're the ones who are wearing the outcome of the marketing decision.

40 So if they want to do that themselves we should allow that to happen. But what we did say is if you want to market the grower economic interest in sugar, which some of them did, including Wilmar, you have to gain the agreement of the growers before QSL would allow that, and they weren't able to do that, and there's a long history now of debate around that.

45 **MR LINDWALL:** If you're - I mean, you're a marketing company, an

efficient marketing company. Why do you have to take a position about whether growers have choice of marketing with your or someone else, rather than the millers having the choice of where to market?

5 **MR BEASHEL:** Because the current model in the industry is the mills buy cane from the growers.

MR LINDWALL: Yes.

10 **MR BEASHEL:** And the growers - some of them at least want the sugar marketed by QSL, and mills, some of them at least, don't want that to happen.

MR LINDWALL: Yes, but that's - - -

15 **MR BEASHEL:** So our position is that those growers should be allowed to have access to the QSL services if they believe QSL can do a better job than their milling company.

20 **MR BAXTER:** So there's - let's take a grower who delivers to a mill. Is that grower capable of saying to the miller, "Yes, I'm happy for you to mill it and the output of that milling you can sell under your umbrella," or he turns around and says, "No, I want that cane processed by you but I'm getting QSL to sell it"? Does that situation or does that opportunity exist?
25 And if it does, in the second element where it's almost a contracting processing, is that possible?

MR BEASHEL: So that's what marketing choice is. You can choose the miller to sell your economic interest in the sugar or you can choose
30 someone else to do it. So from 2017 season onwards, that's what this law says, is the grower has to be afforded that opportunity and they can choose either.

MR BAXTER: Okay. So the grower's got, prior to submitting the cane, he's got at least some knowledge as to two opportunities. Either sell it to
35 QSL - or sell it to the miller, and just goes through his system, or nominate that he wants it milled, but to go somewhere else, whether it's QSL or somebody else?

40 **MR BEASHEL:** In theory, yes. In practice, as we stand here today, no, because QSL has not been able to negotiate contracts with any milling company to put that in place. We're very close with one. We've in fact agreed the terms, subject to changing some of our pooling arrangements with our other clients so that can be implemented. But that's what is the
45 intention, but it's not in place today, for 2017 season.

5 **MR BAXTER:** So what's your assessment of - I mean, you needn't answer this if you don't want to, but what's your assessment of completing that contract arrangement, or contract milling arrangement? You sound as if you're a reasonable way along the track.

10 **MR BEASHEL:** There's three milling companies who have given notice to QSL, so we would like to put a contract in place with each of those parties, so we've agreed with one, subject to changing some of our pooling arrangements with our other clients, and I think that's very close to happening. I'd hope to be making an announcement soon about that.

15 The other two arrangements we're not well-progressed on, and you know, I wouldn't like to speculate about how long that's going to take, or if it's going to happen at all.

20 **MR BAXTER:** But if you succeed with one there's a fair chance it'll send a signal to the others that, you know, if they're going to operate in the market they need to follow suit.

25 **MR BEASHEL:** I hope so, yes, although there's been some public discussion about that. We're in confidential discussions with one of the others, so I can't tell you all the terms, but one of the terms that's been called out is we currently buy the sugar in a free in store basis and that's important for our funding arrangements, and that company, Wilmar, is proposing that the new arrangement be an FOB arrangement, where we own the sugar as it's loaded on the boat, and there's quite a big difference commercially between those two things. Typically the difference in time would be 145 days in terms of owning the sugar, so there would be an unsecured financing arrangement required if we were to agree to FOB terms. It would have impacts on swap pricing for futures pricing and other risks for us that we don't think are reasonable, so we've said that we're not going to accept that term. So that's a major point of difference.

35 **MR LINDWALL:** Isn't it true that for the growers, and the couple her today, their issue is that they want to have the say in who the marketer is and QSL, but for you, I mean QSL, it really is just the law as it stands and the Choice In Marketing is really just a benefit in the sense that it reduces competition from other marketing companies to QSL, in practice?

40 **MR BEASHEL:** The law - I'm sorry, I'm not following you, Commissioner.

45 **MR LINDWALL:** Well, if there was no Choice In Marketing Act, you'd probably have more competition in marketing services?

5 **MR BEASHEL:** No, I wouldn't agree with that statement. I think if there was no marketing act we wouldn't have the ability to provide marketing services in the areas where the notice has been given to QSL, which represents about 80 per cent of the sugar produced in Queensland. So the law in fact gives us access to those markets. So without - - -

MR LINDWALL: So it's almost like an existential threat?

10 **MR BEASHEL:** Yes, yes. Although we have - four of the seven milling companies are contracted to us. They didn't give notice, and they've made the decision that QSL's offering makes sense to them, so they've signed up until the middle of 2019, and they've rolled their contracts since these other companies have given notice.

15 So there's some - some people have got different views on this, obviously. So four of the seven milling companies are contracted to us and continue to be.

20 **MR LINDWALL:** Well, that's probably - - -

MR BAXTER: Yes, I've got no further - I wouldn't mind before you go if I can get your card.

25 **MR BEASHEL:** Yes, certainly.

MR BAXTER: I'd just like to try and get that sort of supply chain with a clearer picture in my mind.

30 **MR BEASHEL:** Yes, I'll be very happy to do that, Commissioner.

MR LINDWALL: Thank you very much then, Greg. So we've got now Tully Sugar, I believe, Nigel Salter, is that right?

35 **MR SALTER:** That's right, thank you.

MR LINDWALL: Just - - -

MR SALTER: Good afternoon, Commissioner.

40 **MR LINDWALL:** Good afternoon.

45 **MR SALTER:** I'm Nigel Salter, and I'm the commercial manager for Tully Sugar Limited. Commissioner, with your indulgence, we put in a very short submission. I wouldn't mind giving an introductory talk.

MR LINDWALL: That would be perfect, really, because I think that I haven't had a chance to look at it yet. It came in - - -

5 **MR SALTER:** And then maybe just comment on a few of the issues that have been raised today, and then I'd be happy to field any questions that you may have.

MR LINDWALL: Excellent, thank you.

10

MR SALTER: Tully Sugar is a single mill. We, unlike the others, have only one base milling operation, so we rely on one bulk sugar terminal and one mill for our production. We were acquired by the Chinese company Cofco, which is a state-owned entity, back in 2011. Because it's a state-owned entity, there are some restrictions that go hand in hand with that, but so far the arrangements have been fairly successful.

15

We employ around about 330 people, we play a significant role in the township of Tully and a pillar of the economy by and large. Tully Sugar welcomes the attention of the Productivity Commission into the regulation of Australian agriculture, and in particular we believe that the *Sugar Industry (Real Choice In Marketing) Amendment Act* that was enacted by the Queensland parliament has added significantly to the costs of operations and has caused delays in our negotiations with our growers for a new cane supply contract for the 2017 season.

20

25

We therefore support the draft recommendation 11.2 of the Productivity Commission that the Queensland government should repeal the amendments to the *Sugar Industry (Real Choice In Marketing) Amendment Act*.

30

Commissioner, my history with the company only goes back 10 years. I joined in 2006, which was virtually the kick-off time for the deregulation, so unlike Mr Murday and some of the cane growers' representatives I haven't been in sugar all my life. I might find it difficult to answer some of your longer-term questions, but I'm happy to do my best.

35

There was some talk earlier on about the difficulties for growers in diversification. Now, the last thing that Tully Sugar wants to see is growers diversifying and not growing sugar cane, but to put that statement in perspective, we, like all the other sugar mills, have a large bucket of bolts with a huge capital cost that we only run for maybe five months of the year and then it sits idle. We have got no opportunities to diversify outside of the sale of by-products like electricity and molasses, and that's

40

45

about it.

5 The other issue which I would like to stress is our total interdependence with our growers. Millers and growers are linked, we're joined at the hip. We cannot prosper without the other party prospering as well. One of the earlier comments challenged the mills' commitment to supporting their growers, and I'd like to just make a couple of observations.

10 As one of the mills that gave notice to quit QSL, our growers for the 17 season do not have any access to the QSL pricing products like Bundaberg, Isis and Mackay, but recognising that sugar prices are at an historical all-time high we've put in place a temporary transitional arrangement that enables growers to rely on their existing 2016 contract as
15 a temporary measure with no coercion and no take-it-or-leave-it, no ultimatums, and we've used that vehicle to provide them with the opportunity to forward price for the 17 season only.

20 Now, it's not a perfect arrangement, because it doesn't address 18 season and beyond, but it comes with no strings attached. The contract that they are relying on to do the pricing has clauses in it which enable them to quit the contract as soon as they sign a collective. Should that happen, they'll have all the choices that the Act prescribes, so we feel that we are taking our growers' welfare, their financial welfare, extremely
25 seriously.

30 Another matter that I haven't heard raised today, and I would like to at the risk of giving you information that you're already particularly familiar with, is that as we sit here right now and going forward, growers have direct control over the pricing of the sugar. Pricing and physical marketing are completely separated in the sugar industry, so growers can either forward price, as we've been discussing the 17 season option that we've made available, or they can select pools operated up until 16 by QSL and going forward by whoever their marketer might be.
35

The statistics that QSL's put out, and the latest I have because I'm not entitled to get this information anymore, but for the 13 season shows that growers in that manner can control up to 99 per cent of the price that they get paid for their sugar cane.
40

45 So this whole marketing issue is really fiddling at the fringes. It deals with the premiums that are earned by the marketer, less the marketing costs that go hand in hand with it. The imposition of the Act will expose our growers to marketers of their choice. We've spoken as if QSL was the exclusive marketer, but there is nothing to stop Cargill or Wilmar or MSF

or any of the international firms touting to the marketer of our growers' physical sugar.

5 The only terminal that we have access to is the Marillion terminal, which is one of the smaller terminals. It has limited capacity. The total holding capacity is around about 175,000 tonnes. The Tully Sugar Industry share of that is about 92. The remainder is largely MSF, who have mills in the area, with Mackay Sugar through some toll crushing arrangements having a small foothill as well.

10 It is going to be extremely difficult for us to manage our sugar stocks based on a maximum capacity of 92,000 tonnes on our own. Sharing that with QSL or MSF or anybody else that is marketing for our growers will add to the costs. It will mean that we'll have smaller vessel sizes, smaller shipments of sugar, multiple loadings at different ports. We see that as a serious risk.

20 One of the other issues that we've had to deal with, Commissioner, is that our marketing entity is a Chinese Hong Kong-based fellow subsidiary company of Cofco. They have been marketing sugar for a considerable period and handled quite a significant tonnage, but a quantity of what they do is directed back to company-owned refineries and the like in China.

25 So we've recognised very early on that one of the issues we have to deal with to the satisfaction of our growers is the arm's length and the transparency of these transactions. We believe that we've got that covered.

30 And just finally, on the issue of ownership of sugar and sovereign risk, I think a previous speaker covered quite clearly the ownership of the sugar cane and the risk that the mills carry once we've taken delivery of it. Sugar in the stockpile, currently ownership transfers to QSL as soon as it's delivered. Going forward for 17, we will have inventory management issues. The insurance and the risk management of those inventories will be part of our brief and part of our role going forward.

35 Mr Commissioner, I really didn't have anything else that I had note for today, but I'd be happy to make any comments that might be useful.

40 **MR LINDWALL:** Thank you very much. Ken, do you want - - -

MR BAXTER: Out of interest, what were the factors that prompted your growers to head in this direction as against going with the - what appears to be a significant degree of support for the QSL arrangement?

45

MR SALTER: At this point we don't have a cane supply contract for 17. Once we do, part of that requirement under the Sugar Industry Act will be to give growers choice of whether they want us or not. So as I sit here right now - - -

5

MR BAXTER: Yes, that's right, exactly.

MR SALTER: - - - we manufacture around about 320,000 tonnes of sugar. Around about 140 will be our - what they refer to as MEI sugar. The other 180 is grower's economic interest. We will get some - most - hopefully most of that to market. We won't know until that nomination is made by the growers.

10

MR LINDWALL: When's that date?

15

MR SALTER: We're targeting having cane supply contracts completed so that growers can nominate by the end of October. Now, that date is dependent on us getting the contracts up and in place. Our marketer indicated to us that delaying past the end of October will cost all marketers opportunities in forward selling in the 17 season, be that our marketer or QSL or anybody else. The sooner we can give them certainty, the better the outcome will be for the growers, so we're trying to get that targeted for October.

20

MR LINDWALL: How many growers did you say?

25

MR SALTER: We have about 240.

MR LINDWALL: 240. But you don't have an opinion on what percentage of them are happy with the marketer that you - - -

30

MR SALTER: Yes. My honest opinion is that there will be a few at the fringes. Some will support QSL completely. Some will support us completely. We're doing our modelling on the basis that approximately half will come with us. There is no science in that. It is just from discussions and anecdotal reports.

35

MR LINDWALL: Yes. Because it seems to me that it's a bit like any investment. Past performance is not a guide for the future.

40

MR SALTER: Yes, yes, indeed.

MR LINDWALL: So the marketing performance of QSL or other marketers in the past doesn't demonstrate what they might do in the future.

45

5 **MR SALTER:** No, no, it doesn't. We heard earlier from Wilmar about investments hinging on the outcome of the Act. Without a doubt, our owners were not pleased with the passage of the bill. It'd be fair to say that any capital proposals that we put them that focus on increased capacity are reviewed with more stringency, but to date nothing has been knocked back. They have not declined any proposals. But they are clearly not pleased with what they perceive to be the sovereign risk to the sugar which we bought in the form of sugar cane and manufactured.

10 **MR LINDWALL:** Does this add to some angst that is similar in other areas such as the Kidman purchase or other Chinese purchases of Ausgrid, for example, in New South Wales?

15 **MR SALTER:** Yes, yes.

MR LINDWALL: Where the Foreign Investment Review Board decisions have tended to be negative in recent times?

20 **MR SALTER:** Yes. Commissioner, we have an excellent relationship with the Foreign Investment Review Board. We were given a series of requirements, reporting requirements and the like, which we've scrupulously adhered to. I cannot give you an honest summation of what our parents' strategies are. I'm a humble Tully servant, and I don't know what other plays they have for Australian assets.

MR BAXTER: But you're not seen as a strategic risk?

30 **MR SALTER:** No, we're not. We're not. They have other ventures in Brazil, and I think by comparison, Commissioner, we look pretty good.

MR LINDWALL: But your relationship with your growers is quite good at the moment?

35 **MR SALTER:** I believe it's very strong. I believe - - -

MR LINDWALL: As you say, because they're intrinsically linked.

40 **MR SALTER:** They are. We've made the pricing available. We don't find negotiating cane suppliers' contracts easy, and I'm sure that that's endemic for the type of operation that we're in, and it's not particular to Tully. But we have excellent relationships with most of our growers. That's not to say they'll all support us, though.

45 **MR LINDWALL:** No, no, of course not. I think Wilmar have

mentioned earlier today that an investment in storage capacity which would allow it to market in March and May rather than July/October - - -

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

MR LINDWALL: Would that be similar in the case of Tully or - - -

10 **MR SALTER:** We are limited to the Marillion terminal. We will be behind the eight ball without the capacity to carry significant stocks forward to the March and May contracts. We have sufficient confidence in the product that we're offering that we'll make savings and recoup that in other areas.

15 Now, it won't be simple, as Shayne Rutherford pointed out. That carry in the market can be \$30 or \$40. So we will have our hands full. But we think we're lean and we're mean and we can - - -

20 **MR LINDWALL:** Yes. So it's true that you do get a premium marketing in March?

MR SALTER: Absolutely, yes. We get a premium all the time, but there is a traditional carry between the July and October contracts through to the March and the May. At the moment the market's actually in decline, so the converse is true.

25 **MR LINDWALL:** Yes.

30 **MR SALTER:** We would get a premium for selling the sugar sooner rather than carrying it forward. But that is unusual. It is unusual.

MR LINDWALL: Yes, yes. All right. Did you have any - - -

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

35 **MR LINDWALL:** Well, I think that's excellent. Unless there are any final points?

40 **MR BAXTER:** No, only one. Who is MSF? There's been mention a couple of times - - -

MR SALTER: MSF Sugar Limited?

MR BAXTER: Yes.

45 **MR SALTER:** It's owned by Mitr Phol, a Thai private company.

MR BAXTER: Right, that's the Thai company.

MR SALTER: Yes.

5

MR BAXTER: Okay.

MR SALTER: Thank you very much and thank you for your time.

10

MR BAXTER: Okay, thank you very much.

MR LINDWALL: Now we've got Andrew Drysdale, I believe, is that correct? Okay, thanks very much for that. Much appreciated. Hello again Andrew.

15

MR DRYSDALE: Yes, thank you. I'm not going to talk about sugar.

MR LINDWALL: No. Good.

20

MR DRYSDALE: Andrew Drysdale, CEO of the Queensland Regional NRM Groups Collective, NRM being natural resource management groups collective. We did put a submission in supporting the number of places that the report identified the potential role of natural resource management groups.

25

In Queensland we have 14 natural resource management groups, of which 13 are not for profits, either companies limited by guarantee or incorporated associations. The 14th, Torres Strait Regional Authority, is actually a statutory organisation set up under a commonwealth act.

30

Our primary role is to implement landscape management. We work with our local communities to identify at a regional scale or a catchment scale those - a landscape that they want, and when I say a landscape that they want, that usually means a landscape that's economically productive, that socially supports a social infrastructure, and also maintains and protects high value biodiversity areas, and we work very hard to try and integrate all three of those across the landscape so there's not - there's an element of win/win/win.

35

40

In terms of the scope of this report and regulation, in Queensland we don't have regulatory roles. In New South Wales, Victoria and South Australia our counterparts do. Our NRM plans in Queensland aren't statutory plans, although there are some examples where other statutory plans do make reference to ours.

45

5 We see our role in some cases of supporting regulatory processes by working with communities and making them aware of their various regulatory responsibilities, but we in no way have any role in terms of compliance or delivering regulation, and at this stage nor do we, because we feel we can win the confidence of community more by not playing that role.

10 We do believe that we're the honest brokers in many cases, and a good example at the moment is with the vegetation football game that's happening in Queensland, where it's very much a political football, and will remain so, I dare say, until some middle ground can be found.

15 We see our role as an example there of trying to bring the parties together, the fringe elements, and drive at least at a regional scale a discussion that will get agreement around the ideal landscape outcomes that our communities and our governments - and I say governments in terms of local, state and federal governments - want.

20 We believe that if we put a fair bit of effort into talking and talk until the talking's done then - and get agreement around those landscapes that we want, then perhaps a lot of the impasse around regulation and the football match may stop.

25 We see by example the long and tedious discussion going around the Murray-Darling Basin and the development of that plan. Whilst it's long and tedious, I think the outcome is going to be ideal in that there will be agreement across a whole lot of key players, and that plan then will set the foundation for the future, and hopefully then minimise the need for regulation in certain areas, and I dare say you're looking at water harvesting, flood plain water harvesting. Again, if we get our communities, and including of the irrigators, to agree that they want a river system that is healthy and to have that healthy river system there needs to be X amount of water going down the flood plains, then again the issue of whether they're taking too much or too little becomes no longer an issue.

35
40 So that's sort of the level that we're working at. In terms of where we think that governments can help us support and in many cases replace the need for regulation, the NRM bodies, definitely in Queensland and I think around the country, are filling a hole that has been made by state governments withdrawing extension services from our industries. That hole is being left increasingly to NRMs and industry organisations to provide those extension services. In some cases there was a belief that the marketplace would fill that void, but in many areas it hasn't. We have to
45 look at the grazing lands right across Australia. There is just not the

market there to drive, you know, in many cases, consultancies and the like.

5 I think the NRM bodies have filled that void well to date, but we are suffering now because of, whilst governments withdrew the services, and then they looked upon the NRMs to fill some of that hole, we are being - we're being very much screwed down in terms of the amount of money that we're able to access to help (1) deliver those services and (2) keep our organisations viable.

10

I think that's probably an element that applies to all not for profits, not only NRMs or environmental organisations, and maybe that's another discussion for a Productivity Commission into how governments are or are not supporting not for profit organisations.

15

MR LINDWALL: Indeed.

MR DRYSDALE: So yes, I would probably pull it up there. Thank you for the opportunity at late notice.

20

MR LINDWALL: Well, thank you, Andrew.

MR BAXTER: Yes, a quick question. You mentioned the Murray-Darling Basin people. Do you have any formal relationship with them, or is it informal?

25

MR DRYSDALE: Our relationship with them - we have an NRM group in Queensland called the Queensland Murray-Darling Committee, which sort of covers a couple of the catchments of the Murray-Darling in Queensland.

30

We - our only role with - our only relationship with the Murray-Darling Basin Authority is by way of they do consult with some of our guys, and in Queensland we have a lesser role than, say, Victoria, but we do deliver some incentive programs for the Murray-Darling Basin Commission or Authority.

35

But I think there's - we have opened a dialogue, and we've had a pretty fruitful meeting with the Murray-Darling, but we're dogged by that they say they are bound by the Act, which says that they can only deal with water that runs between bed and banks, where we're very much about looking at the whole catchment and whole landscape.

40

MR BAXTER: Yes, well, I mean, it was interesting, because we met - or we've met quite a few people in Victoria and New South Wales involved,

45

5 and it was raised with us I think basically on every occasion that there
needed to be an expansion of the area of interest beyond just between the
banks, and into the groundwater supplies, and perhaps more detailed
assessment of what was really in the artesian basin and what was
happening to it.

10 **MR DRYSDALE:** Yes. Well, we put a proposal to them that we
develop a methodology that looks at quantifying the benefits of other
activities like re-snagging rivers or re-vegetating riparian ways, other than
just letting more water flow down. That will ultimately give an
environmental outcome that we all agree on.

15 And even to the extent that we were going to use a common language
of we'll be able to give that - quantify that in megalitres equivalents. The
Authority said, "That's a great project, but we can't fund it because it's
out of scope," and we've said, "Well, are you after an environmental
outcome?" - - -

20 **MR BAXTER:** Exactly.

MR DRYSDALE: - - - "or are you, you know, just trying to stay" - it's
all about water quantity.

25 **MR LINDWALL:** Given the time, I've only really got one question,
Andrew, about whether there are - you're not statutorily based here in
Queensland. Is there an advantage in other states which do have a
statutory basis, or - - -

30 **MR DRYSDALE:** Well, there is one advantage. We're non-statutory,
and at the moment we get a state budget of about \$8 million. Victoria is
statutory and they have a budget of about \$70 million. And New South
Wales has a budget of about \$80 million per year. So - - -

35 **MR LINDWALL:** And you've got a large territory to cover.

MR DRYSDALE: We've got a big area. We may have a - we - and I
really don't believe that we engage our community any better or any
worse than the Victorian CMOs do, so that's a question we're going to
have to take on board and answer.

40 **MR BAXTER:** No, that's all I've got.

MR LINDWALL: Thank you very much then, Andrew.

45 **MR DRYSDALE:** Thank you.

MR LINDWALL: Now, that's the last appearance, unless - Don, did you want to have anything final to say? No? In which case I'll adjourn the proceedings and we'll resume tomorrow in Townsville.

5

**MATTER ADJOURNED AT 3.24 PM UNTIL
THURSDAY, 25 AUGUST 2016 AT 9.00 AM**