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Regulation of Australian Agriculture
Productivity Commission
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Regulation of Australian Agriculture – Comments on the Issues paper

Please find attached some brief feedback in relation to the Productivity Commission's current inquiry into the regulatory burden imposed on Australia's farm businesses.

The Australian Sugar Milling Council (ASMC) is the peak industry organisation for raw sugar milling in Australia. The ASMC represents some 95 per cent of Australian raw sugar production through our 6 member companies owning 20 sugar mills. In total, there are 24 sugar mills in Australia, owned by eight companies.

These mills produce raw sugar, which is either directly exported or refined in four Australian refineries. With around 80 per cent of raw sugar being exported, Australian sugar is priced on the global market. The Australian industry's ongoing viability and sustainability is absolutely reliant on its competitiveness in this global marketplace.

Over 4,000 farmers sell sugarcane to mills for processing into raw sugar. Every regulation imposed on agriculture that impacts these farmers will drive up their costs and ultimately impact the Australian industry's capacity to compete successfully on the world stage.

The sugar milling industry sector is not immune to the impost of regulations that impact operations and require reporting but is often better able to deal efficiently through commercial business systems with the management and adherence to regulatory requirements than many of these relatively small farm businesses.

ASMC welcomes the attention of the Productivity Commission on this matter and looks forward to continuing to assist the Commission through this process.

Yours sincerely

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Regulation and the sugar industry

The Queensland sugar industry is potentially the best example of an agricultural industry in Australia that was held back for decades by virtue of its over-regulation.

The industry was the subject of more than 30 significant inquiries, reviews and task force reports initiated by industry and governments from 1982 to 2006 examining its competitive and regulatory framework. The inquiries slowly but surely moved the industry towards deregulation in 2006.

The underlying theme from the many inquiries and reports was that the industry needed to become commercially vibrant, sustainable and self-reliant through:

- committed cane growers and millers being responsive to international and domestic market forces; and
- operating in an open, deregulated industry environment, within Australia's corporate governance framework.

Unfortunately, the recent past has seen the Queensland sugar industry re-visited by unhelpful and burdensome regulation through changes to the *Sugar Industry Act* that will impose a raft of new costs to stakeholders across the supply chain and significantly limit the opportunity for innovation and flexibility that Australian industries competing in the world marketplace need to remain competitive.

This is an example of regulation being introduced without any of the normal pre-requisites for intervention by Governments. The changes to the Act were passed despite a highly critical regulatory impact statement (RIS) report by the Queensland Productivity Commission (QPC). The QPC assessment found there was no evidence to support a case for market failure in the Queensland sugar industry, and that the benefits of the additional regulation did not outweigh the costs.

Comments on the issues paper

"Regulation can be of benefit to the agriculture sector (and the community more broadly) where it meets economic, social and/or environmental objectives, and is designed and implemented efficiently and effectively."

While this statement from the issues paper suggests regulation can be of benefit to the agriculture sector, it also highlights one of the major challenges faced by agriculture when it comes to the impact and/or reason for regulation.

The particular element of concern is the fact that such regulation is often introduced with a very narrow perspective, mostly in pursuit of improved environmental performance or to address clear market failure, without a holistic consideration of the practical implications. This is particularly the case given the variable nature of agriculture including but not limited to variable soils and growing conditions, climate variability, international commodity price fluctuations. Lack of

rigorous assessment can lead to perverse outcomes and the negative economic and social impacts can be disproportionate to the improved environmental outcome that is being sought.

An example is the 2009 reef regulations introduced in Queensland where extensive regulations impacting commercial sugarcane farming and cattle grazing were introduced by the Government of the day without any form of regulatory impact assessment. It resulted in 'best guess' regulations that did not consider the vastly different growing conditions of the different sugar industry regions in Queensland.

"A key principle in the Australian Government Guide to Regulation is that policymakers consult with each other to avoid creating cumulative or overlapping regulatory burdens and that regulations be periodically reviewed to test their continuing relevance (PM&C 2014)."

There is a clear need for much greater coordination and consistent regulations across government. There are a number of policy areas where agriculture perhaps falls victim to colliding regulation from local, State and Federal Governments. One example is the movement of oversize/overweight farm machinery and trucks where there can be three separate permits required before such equipment can be moved between farms. The work of the NHVR is slowly improving this inefficiency and needs to continue.

- *"How could development assessment and approval processes be improved?*
- *Do different development assessment and approval processes result in unnecessary regulatory burdens?*
- *Are there inconsistencies between land use regulations and other regulations?*

- *What is the evidence for this?*
- *Do the benefits of regulations that restrict land use to agriculture activities outweigh the costs?*
- *Is there scope for zones to allow a broader range of complementary land uses,*
  while still preserving agricultural interests and recognising essential land management or conservation purposes?"

These questions are raised in the issues paper about development assessment and approval processes and while it is not our intention to respond directly to each of these, there is a general comment that is worth stating.

Queensland state planning policies have become notably complex and with each new government in recent times there has been changes in planning policies. The changes are aimed at simplifying planning laws, but can become 'over-burden' for development assessment and approval processes already underway. Such applications must be updated to adhere to a new framework, which is costly and time consuming.

Further, where local government planning policies are out of date and therefore inconsistent with state level policies, development applications (as well as challenges to applications) are made more complex, and often agricultural land is not afforded the protection that is intended in new state planning policies.

An example in the recent past was the approval by a local Government for the construction of a large solar farm on an existing 300 hectare sugarcane farm. A milling company member of ASMC objected against the development in the approval process and had then filed a challenge to the decision in the Land Court.

This resulted in the State Government in Queensland calling in the development application, circumventing the Court process. The change of use of the land from sugarcane growing to energy production via solar generation was more consistent with a policy commitment of the Government in the lead up to the previous State election than the long held policy position of successive State Governments in Queensland to protect good quality agricultural land.

Competition regulation

There are a range of statutory provisions under the *Competition and Consumer Act 2010* (Cth) (CCA) designed to protect competition and the misuse of market power. These provisions have been subject of recent review (*Harper Review*). The provisions include Unconscionable Conduct, Collective Bargaining, Misuse of Market Power, and Exclusive Dealing, as well as provisions around misleading or deceptive conduct.

The Australian Sugar Milling Council supports minimal government intervention in commercial matters unless there is demonstrated market failure that is not addressed in the myriad of existing consumer and competition laws and other safeguard mechanisms.