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Regulation of Australian Agriculture  
Productivity Commission  
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agriculture@pc.gov.au

Dear Sir/Madam

### **Regulation of Australian Agriculture – Productivity Commission Issues Paper**

The Office of the NSW Small Business Commissioner (OSBC) is committed to supporting and improving the operating environment for small businesses throughout NSW. The role of the OSBC is to:

- provide dispute resolution services;
- deliver quality business advice through Small Biz Connect; and
- speak up for small business within government.

The OSBC works closely with small businesses and industry to identify regulatory requirements that place unnecessary burdens or costs on small businesses across a wide range of sectors. This extends to acting as the NSW small business representative on a range of government agency consultations, reviews and reforms.

With close to 55,000 NSW small businesses engaged in the agriculture, forestry, and fishing industries (comprising approximately 8 per cent of all NSW small businesses<sup>1</sup>), the agricultural industry is a vital part of the NSW economy and small business network. The OSBC supports the review of the current regulation of Australian agriculture and supports the recommendation to simplify the requirements for agricultural businesses.

### ***Transport***

Many agricultural producers in regional NSW rely on the ability to transport agricultural products, and oversize materials and machinery between properties. The OSBC acknowledges the work the NSW Government has done to improve the regulation and administrative burden for businesses. However, the OSBC understands that complex arrangements and administrative requirements remain for some businesses.

The OSBC understands that prior to the establishment of the National Heavy Vehicle Regulator (NHVR) in February 2014, NSW Roads and Maritime Services (RMS) was responsible for approving heavy vehicle applications. Some permits for oversize vehicles are now required to be approved by the NHVR. This has led to some confusion for small businesses as they are being passed between government agencies, in particular regarding who to contact to seek approval and plan the next journey.

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<sup>1</sup> 2013-14 data from ABS publication 8165.0



Businesses have advised the OSBC that some of these processes could be improved through:

- enhanced streamlining and greater information sharing between the NHVR and RMS; and
- an awareness campaign to advise businesses of the different roles, governance and processes of the two disparate government agencies.

The OSBC has further been advised that the current process of applying for NHVR oversize permits can be cost prohibitive, burdensome and inefficient. This may have ramifications on the viability of some businesses in regional NSW. The current application process requires businesses to provide a journey planner, complete application forms for each journey, and engage with local council engineers and RMS. It was also noted that there may be no specified local council contact person to respond to any concerns. Without having direct access to representatives in each council area the approval process may be delayed without the business' awareness.

Other concerns relate to the one month expiry date of the permit issued by the NHVR. Specifically, that they may need to reapply should their journey be delayed due to poor weather, production delays or road closures.

The Office of the NSW Cross-Border Commissioner has also advised that the regulation of agricultural road transport is an impediment in the cross-border areas. Specifically that the differences in registration, heavy vehicle requirements, and the associated time and cost of compliance across jurisdictions is complicated and burdensome on business.

### ***Biosecurity (weed management)***

The OSBC understands that local jurisdictions may implement various weed management strategies to counter the importation and growth of certain plant varieties. As each local government implements their own individual strategies, some standards may conflict and cause confusion for businesses that operate across council borders. This may be of particular concern for wholesale nursery and garden plant producers, and for agricultural production properties that extend across local government boundaries.

Producers note that the differences between policies and the enforcement of these policies can be exacerbated by the lack of communication between local governments, and government agencies that manage weed policies and agricultural production. It was also noted by some small businesses that there is a lack of industry consultation more broadly.

The Office of the NSW Cross-Border Commissioner has noted that biosecurity regulatory issues occurring across state borders are generally well managed by the respective state agencies through collaborative agreements.

### ***Water access and regulation***

The OSBC has been advised by a small business operator that due to reductions to water entitlement over the years, some water licence holders with more than one water account may need to transfer water entitlement between water accounts to meet demand. Although the volume of water may be small (under 20 ML, noting that only transfers over 300 ML require a hydrological assessment), each transfer incurs a fee of \$242.12, payable to the NSW Department of Primary Industries. One small business operator with multiple water licences advised that incurring multiple instances of the trading fee makes transferring small volumes of water between water accounts prohibitive. Although it is understood that these fees are determined by IPART, measures to streamline the application process and reduce the instances where a fee is charged multiple times may benefit some licence holders. This would be particularly beneficial in dry years when allocations are low.



## ***Licencing***

The Office of the NSW Cross-Border Commissioner notes that in cross-border regions the issue of licencing regulation of agriculture related industries has had an impact the overall productivity of the sector. Licencing regulation differs across jurisdictions and can restrict the trade of both goods and services. Such restrictions occur in the property sector with regard to the auctioneering of property and livestock. Specifically, stock and station agents are required to hold licences for each state jurisdiction in which they operate. This issue is currently a component of a review being conducted by NSW Fair Trading into *Training for licenced occupations in the New South Wales property services industry*.

The Office of the NSW Cross-Border Commissioner has also advised of an additional issue relating to the harvesting of Macropods (kangaroos). Specifically, that multiple licences are required and that hunting and processing must be conducted in the same state jurisdiction. This poses particular issues for businesses operating over state borders and where the closest processing facilities are located over the border. The NSW Office of Environment and Heritage is currently investigating this issue.

## ***Consumer-related regulation***

The OSBC acknowledges the advantages of food and product labelling to make sure consumers can identify a product's food characteristics, such as the country of origin and ingredients. However, labelling requirements and food safety regulations may also place significant compliance burdens on smaller producers. Smaller producers may not be able to easily absorb costs arising from changes required to their packaging and/or business model as a result of regulatory changes. For example, the proposed country of origin labelling<sup>2</sup> and free range egg labelling<sup>3</sup> regulatory changes.

Significant cost increases may be incurred by food industry participants associated with regulatory changes currently being contemplated by various levels of government in relation to food labelling and food safety. In consideration of this, the OSBC recommends a phased transition approach to regulatory changes be applied, where feasible, and communication strategies be carefully planned. The OSBC can assist in the dissemination of information to small businesses through its network of Small Biz Connect business advisors, the Small Biz Bus, website, and social media channels.

## ***Exemptions***

The OSBC supports regulation that offers flexibility for smaller producers who may not be able to absorb the costs of added regulation. For example, in November 2014 the NSW Food Authority recognised the impact that changes to their egg stamping requirements may have on smaller producers and introduced an exemption for operators that produce less than 20 dozen (240) eggs a week and sell their eggs direct from the farm gate.<sup>4</sup>

The OSBC encourages the Productivity Commission's report to consider whether exemptions for smaller producers for certain standards and regulations may need to be implemented if changes to food labelling, free range standards or industry wide standards are adopted.

## ***The collective burden of regulation***

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<sup>2</sup> <http://www.industry.gov.au/industry/IndustrySectors/FoodManufacturingIndustry/Pages/Country-of-Origin-Labeling.aspx#header>

<sup>3</sup> <http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2015/Free-range-egg-labelling>

<sup>4</sup> [http://www.foodauthority.nsw.gov.au/\\_Documents/industry/egg\\_stamping\\_for\\_egg\\_producers.pdf](http://www.foodauthority.nsw.gov.au/_Documents/industry/egg_stamping_for_egg_producers.pdf)



Many small business operators across all industries, not just agriculture, spend a significant portion of their time understanding and complying with regulations. It may not be that the regulations themselves are ineffective, rather that the administration of the regulations is time consuming and inefficient from the business' perspective.

Many regulators put information on their websites with the expectation that small businesses know that it exists, can find it, have read it, understand it and know how to implement it. Small businesses may not have the time or resources to engage in this undertaking, particularly when information is complex, not concise and often not tailored to small business needs.

Government, at all levels, needs to communicate clearly with the small business sector so that they understand the services provided, and how and where to access the information they require. An effective communication strategy with small business operators in the agricultural sector should consider:

- Targeting the right group – being specific about the type(s) of businesses being targeted, and then identifying their particular needs, abilities and interests before communication is designed. English and financial proficiency will also vary between small business operators.
- Type of engagement – multiple channels of engagement are required to effectively achieve engagement with the small business sector. A multipronged approach may include any combination of the following:
  - Utilising networks available through industry associations, local business chambers and local councils. For example, attending and speaking at regular and special meetings, events and tradeshow. Also contributing content (text or video) to industry journals, magazine, newsletters and websites.
  - Providing telephone, email and face-to-face contact points. For example, the OSBC provides dedicated telephone and email support to assist the NSW small business sector. Through the Small Biz Connect program, the OSBC also provides face-to-face business advisory services.
  - Format and tone - Overall communication needs to be simple, relevant, concise and in plain English. The relevance, benefit and/or risk needs to be communicated up front. Also, images, simple graphs and other visual elements may strengthen messaging.

Further the Office of the NSW Cross-Border Commissioner has advised that the collective burden and complexity of business reporting when operating across multiple jurisdictions, significantly hampers business efficiency, opportunity for expansion and innovation. Data entry by business is often duplicated across the various reporting platforms, such as payroll tax and workers compensation, and is again time consuming and costly to business. The sharing of information within NSW and across jurisdictions could help alleviate this issue.

Should you wish to discuss these comments in further detail, please contact Coralie Gordon, Advocacy Advisor

Yours sincerely

**Robyn Hobbs OAM**  
**Small Business Commissioner**

9 February 2016