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Tasmanian Government

Regulation of Australian Agriculture
Productivity Commission
Locked Bag 2, Collins St East PO
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By email: agriculture@pc.gov.au

Dear Sir/Madam

Productivity Commission Inquiry into Regulation of Australian Agriculture

Thank you for the opportunity to make a submission to the Productivity Commission's Inquiry into Regulation of Australian Agriculture, and for staff from my Department and the Department of State Growth to meet with Commissioner Paul Lindwall on 14 January 2016.

Enclosed with this letter is a copy of my Department's submission. Where relevant, for ease of reference it reproduces the subheadings and questions contained in the Productivity Commission's December 2015 issues paper.

In addition to the submission, I wish to draw to your attention the enclosed report titled *Compliance burden review – agriculture sector* prepared in 2013 for the Department of Economic Development, Tourism and the Arts (now the Department of State Growth) examining opportunities to reduce the regulatory burden imposed on businesses in Tasmania's agriculture sector. The review consulted with agriculture sector businesses in order to identify:

- key examples of where businesses considered that Tasmanian regulation and regulatory practices impose an excessive or unnecessary regulatory burden; and
- practical and tangible ways to reduce the time and cost incurred by agriculture sector businesses to meet their regulatory obligations.

A consistent theme that emerged from the consultations was that regulatory issues affecting the agriculture sector are not caused by any single regulatory requirement. It is instead the cumulative burden imposed by a wide range of regulatory requirements that is of greatest concern to business. Nonetheless, the review identified 13 specific opportunities to reduce the regulatory burden experienced by the agriculture sector under three broad categories:

- Improving consultation processes for new regulations;
- Streamlining and reducing existing regulatory requirements; and
- Providing clearer guidance and consistency for regulatory requirements.

The issues identified by the review are being addressed through a whole of government working group, but may be of assistance to the Productivity Commission in illustrating the kinds of regulatory issues that are of concern to the agriculture sector in Tasmania.

The report also notes that a concerted effort to remove existing regulatory burdens and prevent unnecessary new burdens from being introduced, which regardless of how modest they may seem, can collectively lead to an overall reduction in the regulatory burden faced by agricultural businesses. Consistent with this theme, the Tasmanian Government has appointed a Red Tape Reduction Coordinator who is consulting extensively with business and the community to identify and address poorly designed regulation that is acting as a barrier to productivity, innovation, investment and growth. A progress report on the Government's implementation of red tape reduction measures is available at http://cg.tas.gov.au/home/red_tape_reduction.

Finally, I wish to note that as a State with a small population, the per capita cost of making, implementing and maintaining regulations in Tasmania can be significantly higher than in other jurisdictions. The Productivity Commission's inquiry is welcome and has the potential to provide disproportionate benefits to Tasmania through the identification and removal of unnecessary or inefficient regulation.

Please contact Tim Eldridge on should you have any questions in relation to this submission.

Yours sincerely

John Whittington
SECRETARY

18 February 2015

Farm Businesses and regulation

Issues with planning approvals continue to be an area of concern to agricultural enterprises, especially those working across municipal boundaries in Tasmania. The Tasmanian Government is reforming the State's planning system by introducing a single planning scheme for the State to be known as the Tasmanian Planning Scheme. *Amendments to the Land Use Planning and Approvals Act 1993* (Tas) that commenced on 17 December 2015 provide for the introduction of the Scheme.

The Tasmanian Planning Scheme will consist of State Planning Provisions that apply State-wide and a Local Provisions Schedule for each municipality. It will take effect in each municipality once the relevant Local Provisions Schedule is in place.

A Planning Reform Taskforce was formed in mid-2014 to advise the Tasmanian Government on key planning issues and to prepare the State Planning Provisions for the Tasmanian Planning Scheme. The Taskforce is supported by the Department of State Growth and is independent of the Tasmanian Planning Commission.

The draft State Planning Provisions are expected to be released for public comment early in 2016. The Commission will invite written representations and assess the draft State Planning Provisions before reporting to the Minister for Planning and Local Government.

More detailed information on planning reform is available at www.justice.tas.gov.au

Access to technologies and chemicals

GMO moratorium

Since 2001 Tasmania has, for marketing purposes, had a moratorium on the use of Genetically Modified Organisms (GMOs) into the environment. The *Genetically Modified Organisms Control Act 2004* (Tas) was enacted on 16 November 2004 and through the *Genetically Modified Organisms Control (GMO-free Area) Order 2005* the whole of Tasmania was declared a GMO-free area. The Order was intended to position the State in the global marketplace as a producer of food that is genuinely GMO-free.

In 2013 the Department of Primary Industries, Parks, Water and Environment (DPIPWE) conducted a review into the moratorium that received 160 public submissions. Following the review, the Tasmanian Government extended the moratorium until 16 November 2019 through the *Genetically Modified Organisms Control Amendment Act 2014*.

The *Tasmanian Gene Technology Policy 2014-2019* outlines the Government's intention to maintain a GMO moratorium while the *Tasmanian Gene Technology Guidelines* describe the dealings that may be authorised under the Act. The Policy will be reviewed before November 2019 to enable technological advances and likely impacts on markets to be understood before a decision on whether to further extend or amend the moratorium is made. Copies of the Policy and Guidelines, along with a Decision Regulatory Impact Statement that provides a summary of the perceived impact of the regulation, are available from http://dpipwe.tas.gov.au/agriculture/tasmanian-gene-technology-policy-2014-2019.

AgriGrowth Tasmania (a division of DPIPWE) is responsible for implementing an annual monitoring program that seeks stakeholder views and delivers an annual report to the Minister for Primary Industries and Water specifically addressing:

- The development of new generation GMOs that provide health or other benefits;
- consumer sentiment in important current and potential future markets; and
- new gene technologies that provide positive benefits to primary industry sectors and Tasmania as a whole.

AgriGrowth Tasmania's first annual monitoring report, which was informed by significant industry consultation, did not reveal any new issues or technologies that would warrant a review of the existing moratorium.

DPIPWE's 2013 review into the moratorium found that the State's GMO-free status may serve as a hedge against potential future shifts in consumer sentiment and buying behaviour. This observation appears to remain valid with AgriGrowth Tasmania's 2015 monitoring report finding that, apart from the USA and Singapore, the majority of Tasmania's major international trading partners have consumers that remain sensitive to genetically engineered foods.

In 2014 industry experienced some difficulty accessing canola seed that met Tasmania's "zero tolerance" threshold for the presence of GMO material, which led to the Tasmanian Farmers and Graziers Association requesting the Tasmanian Government to raise the threshold to 0.9 per cent canola seed for sowing, in line with the other Australian states that have specified a non-GM threshold. This year there is sufficient seed to meet grower demand and AgriGrowth Tasmania is continuing to monitor risks associated with maintaining the current threshold for imported canola seed.

Agricultural and veterinary chemicals

The Department welcomes the Australian Government's commitment, reiterated in the White Paper on Agricultural Competitiveness, to further streamline the regulation of agricultural and veterinary chemicals, including by improving access to chemicals for minor crops and pests. This is an important issue for Tasmania with the extensive irrigation development underway in the State creating diverse opportunities for Tasmanian farmers to trial new crops. It is vital that they are not unduly constrained by a lack of access to chemicals that are already approved for use and available to competitors in comparable jurisdictions such as New Zealand.

It is noted that in the Agricultural Competitiveness White Paper the Australian Government committed to recognise assessments from accredited third party suppliers and trusted chemical regulators to reduce paper work, while examining risks that are different in the Australian market due to our different human health requirements, agricultural practices or environmental assets. The Tasmanian Government is supportive of this approach and is continuing to participate in the Australian Government's reform process through the Agriculture Senior Officials Committee Agvet Chemicals Task Group.

Water

The Department is not aware of any significant national water resource management issues having a material impact on the productivity and competitiveness of agricultural enterprises in the State that warrant consideration by the Productivity Commission. The Tasmanian Government has recently delivered two significant reforms benefitting agriculture, including enhancements to the dam approval process and a new policy on water resource management during extreme dry conditions.

On 1 January 2016, amendments to the *Water Management Act 1999* (Tas) commenced that reduce the time and cost for farmers in obtaining a dam works permit. The reforms included:

- abolishing the Assessment Committee for Dam Construction and replacing it with the Minister for Primary Industries and Water as the decision maker;
- providing a pathway for obtaining dam works permits without the need to make an application;
- better defining the nature and scope of dam works permits;
- specifying criteria under which dam works permit applications must be approved;
- specifying the matters to be considered by the decision maker in relation to dam works permit applications;
- simplifying the provisions regarding the timeframe for decisions on dam works permit applications;
- providing for conditional approval of dam works permit applications in some circumstances; and
- conducting an annual review of the implementation of the dam works approval process.

The reforms are also designed to integrate environmental and dam safety safeguards into the one process.

The new Water Resource Management During Extreme Dry Conditions Policy announced by the Tasmanian Government in November 2015 sets out water resource management measures to be implemented in Tasmania during extreme dry conditions, ensuring an appropriate balance between consumptive water needs and environmental water needs under these circumstances. All water resources in the State are now subject to the Policy until such time as the Minister for Primary Industries and Water determines that the extreme dry conditions currently affecting many agricultural areas in Tasmania no longer prevail.

Tasmania's water resource management system, particularly where it is implemented through water management plans, has been developed with reference to long-term hydrological conditions. Its focus is on managing water resources within the range of climatic conditions prevailing in the majority of years. In most years, water resource management provisions developed in relation to long term hydrological conditions are appropriate, however strict implementation of these provisions during extreme dry conditions would have unacceptable impacts on farming enterprises and regional communities inconsistent with the objectives of the *Water Management Act 1999*.

Animal Welfare

Do existing animal welfare regulations (at the Australian and state and territory government levels) efficiently and effectively meet community expectations about the humane treatment of animals used in agriculture production?

Community expectations are reflected through both advocacy and consumer behaviours. If the two do not align there is a risk that regulation in response to community advocacy may reduce the competitiveness of agricultural businesses and result in them losing market share to businesses operating under less stringent requirements, at which point the regulation becomes self-defeating. Tasmania's animal welfare regulations are designed to meet the expectations of the Tasmanian community while minimising impacts on industry supply chains that could be detrimental to the

competitiveness of Tasmanian businesses. Effective stakeholder consultation during the development of new regulations is essential to achieving a balanced outcome.

Tasmania adopts nationally agreed standards where possible but reserves the right to apply higher standards. National standards need to cover the whole of Australia and one of the challenges in developing them is that practices that are reasonable and acceptable in one part of the country may not be in another part. For example, due to the practical difficulty of inspecting animals in the extensive grazing areas of northern Australia, it is reasonable to apply a lower standard than in Tasmania where graziers face fewer challenges in inspecting stock.

Do animal welfare regulations materially affect the competitiveness of livestock industries, and, if so, how?

Higher animal welfare standards do not always impose a higher cost on producers. For example, Tasmania applies a higher standard than other Australian jurisdictions in relation to the confinement of sows in stalls.

Tasmania's *Animal Welfare (Pigs) Regulations 2013* commenced on 1 July 2013. The Regulations give effect to most of the standards contained in the *Model Code of Practice for the Welfare of Animals - Pigs, Third edition*. However, Tasmania does not apply standard 4.1.5 of the Code and prohibits the confinement of sows in stalls except in the following circumstances:

- under veterinary direction;
- up to 10 days per oestrus cycle for the purpose of mating and for no more than 5 days following the final mating; and
- up to 3 hours per day for the purpose of feeding, veterinary treatment or husbandry procedures, or cleaning of the sow's pen.

As part of the introduction of the Regulations, a Regulatory Impact Statement (RIS) was prepared to examine the effect on the State's pork industry (http://biosecurityadvisory.dpipwe.tas.gov.au/Lists/BiosecurityAdvisory/Attachments/50/sowstallsRIS.pdf).

The RIS determined that while implementation of the new Regulations would result in some initial adjustment costs for Tasmania's pork industry, over the next ten years it would deliver a small annual net benefit across the industry, effectively making the reforms cost neutral. Since the new regulations commenced there has been an increase in the value of pork production in Tasmania, despite some operators deciding to opt out of the industry. In this case Tasmania's higher standards have addressed community concern and provided a point of differentiation for marketing Tasmanian pork products without reducing the competitiveness of Tasmania's pork producers.

What are the reform priorities for animal welfare regulations, if any, and have recent reforms, for example in relation to the ESCAS, delivered net benefits to the community?

Tasmania is not directly affected by the Export Supply Chain Assurance Scheme (ESCAS) as there are no direct live exports from Tasmania.

How do variations between state and territory animal welfare regulations affect livestock businesses and/or consumers?

Some differences between states and territories are unavoidable, such as the additional animal welfare requirements attributable to the unique challenge of transporting livestock across Bass Strait. These differences may result in increased costs to livestock businesses if higher standards

need to be met. In relation to land transport, significant effort has been made to ensure consistency of standards between states so that the standard is the same throughout the journey for animals transported across state borders.

What are the costs and benefits of national animal welfare standards? Are there any barriers to implementing national standards?

The development of national standards is often a slow process due to the number of jurisdictions and stakeholders involved. The imperative to reach a consensus can result in the 'lowest common denominator' becoming the national standard. The time lag between the announcement or commencement of a process and the completion of the standard, and the inevitable compromise required to reach agreement on a standard, can result in considerable resources being consumed on stakeholder and issues management.

Once a national standard has been developed it needs to be incorporated into legislation in each jurisdiction. The wording of national Codes of Conduct often has to be re-drafted to enable this to occur, resulting in similar but differently worded requirements between jurisdictions.

Under Tasmanian law, the State's Animal Welfare Advisory Committee is required to consider and make a recommendation to the responsible Minister on the adoption of each nationally agreed standard. The Committee has in the past refused to endorse a national standard where it considers the standard to be too low.

Are animal welfare regulations appropriately enforced?

Under Tasmania's *Animal Welfare Act 1993*, several classes of people are deemed to be responsible for the welfare of animals. In practice, this means that in addition to the owner, other people have some responsibility if they have animals on agistment or loan, if they are a livestock carrier or livestock agent, or if they have animals in their care in any other way. The Act applies to all animals, whether they are pets or livestock.

The Animal Welfare Branch of the Department of Primary Industries, Parks, Water and Environment works closely with the RSPCA's Tasmanian inspectorate to ensure appropriate enforcement of the State's animal welfare regulations. Each has clearly defined and delineated responsibilities for investigating animal cruelty and animal welfare cases in domestic circumstances and commercial agricultural operations.

Biosecurity

Are requirements for biosecurity-related audit arrangements unnecessarily burdensome? Could audits be combined or streamlined?

All audit or surveillance requirements come at a cost. These requirements need to be regularly reviewed to ensure that the level of audit/compliance is the minimum necessary. Options to combine and streamline audits have been explored by some industries but export requirements are set by the importing country.

Is it likely that the new Biosecurity Act 2015 (Cwlth) will achieve its aims of managing biosecurity risks to an acceptable level, managing the impact associated with biosecurity incidents, and maximising the economic efficiency of the management of biosecurity risks?

Of concern to Tasmania is that arrangements for import assessments under the *Biosecurity Act 2015* (Cwlth) adequately address regional differences. These differences may be due to uneven

distribution of susceptible hosts, significance of an industry on a regional basis, or climatic and other environmental issues that may impact on the survival and spread of the pest or disease. If assessments adequately address these issues and importation conditions are set to reflect them, for example by only permitting imports into specific regions of Australia, then Tasmania may not need to undertake a separate import assessment or impose additional conditions, which would result in significant savings to government and a saving to industry.

In relation to managing incidents, Tasmania's existing legislation appears more flexible and easier to implement than the Biosecurity Act. It is anticipated that where possible the Tasmanian legislation will be used to undertake a response to an incident.

Consumer-related regulation

Certified organic and biodynamic product

The value of Australia's organic and biodynamic industry has continued to grow strongly in the last ten years, despite the instruments for determining the organic and biodynamic status of products not fully servicing the domestic or export markets appropriately. The Australian Government has over a number of years invested in the development of a voluntary *Australian Standard for Organic and Biodynamic Products* (AS6000), which was released in 2009 and updated in 2015, in order to address consumer and industry concern about the authenticity of domestic organic products. However, the voluntary standard has only been partly effective in addressing consumer and industry concerns. Furthermore, the lack of a single mandatory domestic standard is constraining Australian organic exports.

Equivalency arrangements through which countries agree to recognise each other's domestic standards for certification purposes can support export driven industry development by removing unnecessary duplication and reducing the costs of audit processes. An Australian domestic standard is a necessary prerequisite for other countries to determine equivalency of certification with Australia. In the absence of such a standard, Australian organic exporters must pay for their product to be audited and certified in accordance with the importing country's standards, regardless of whether the product has an Australian certification. The cost of obtaining this additional certification reduces the competitiveness of Australian organic exports and can be prohibitive, stifling the development of new markets and export-oriented organic businesses.

Other comments

Government regulation increasingly needs to be considered alongside the voluntary systems employed in the supply chain by major retailers. Indeed, businesses sometimes mistakenly see the implementation of these private supply chain quality assurance systems as being part of Government regulations and requirements. Greater industry-Government collaboration is therefore one of the keys to achieving more efficient regulatory processes.