

*Submission to*

## **Productivity Commission – Annual Review of Regulatory Burdens on Business**

*June 2007*

Regulatory Burdens - Primary Sector  
Productivity Commission  
PO Box 80, Belconnen  
ACT 2616, Australia.

### **The Victorian Farmers Federation**

The Victorian Farmers Federation (VFF) is Australia's largest state farmer organisation, and the only recognised, consistent voice on issues affecting rural Victoria. The VFF welcomes the VCEC's review of food regulation in Victoria to reduce the regulatory burden on business and the not-for-profit sector

The VFF represents 19,000 farmer members across 15,000 farm enterprises. Victoria is home to 25 per cent of the nations' farms which do not attract any government export subsidies or tariff support. Despite farming on only three percent of Australia's available agricultural land, Victorian producers are responsible for 30 per cent of the nations' agricultural product. As the leading representative organisation for farming interests in Victoria, the VFF represents the interests of our State's dairy, livestock, grains, horticulture, chicken meat, pigs, flowers and egg producers.

Today, around 70 per cent of Victorian agricultural product is exported overseas. Victorian food and fibre exports have an approximate value of \$5.75 billion and represent 23.7 per cent of Australia's total agricultural production. Agricultural producers also provide one in ten regional jobs and are responsible for as much as 50 per cent of the total employment opportunities in regions outside major towns.

The Victorian Farmers Federation appreciates the opportunity to provide comment on the Productivity Commission's review of Regulatory Burdens on Business.

In this submission, our organisation draws attention to those areas in which the regulatory burden on business places an unnecessary impost on Victoria's rural and farming communities. In particular, the VFF is vitally interested in how the regulatory burden can be reduced in the primary sector, and indeed in all sectors as a matter of priority and the options for doing so.

**Simon Ramsay**  
**President**

## Red tape in the Primary Sector

Victoria has more than 70 regulatory authorities administering over 23,000 pages of legislation and nearly 8,000 pages of regulations.

The costs of complying with audit requirements can be significant for businesses, and ultimately consumers. Regulators need to continually review ways to reduce these costs and the burden of regulation on rural producers.

The Victorian Farmers Federation (VFF) believes the agricultural industry is being overwhelmed by red tape and unnecessary permits, and farmers are spending too much time completing paperwork.

Farmers are at the base of the commercial food and fibre supply chain, and it is only through a constant drive to improve efficiency, that they can improve their competitive position in a world market. Regulation is in many cases an impediment to obtaining efficiency gains.

Regional Victoria, with a high proportion of small businesses, coupled with longer distances and the relative shortage of specialised staff is increasingly challenged by regulatory compliance.

Often the greatest difficulty with regulations is related to compliance or administration, not the regulatory standards themselves.

The VFF has identified the following regulations as examples of burdens on business arising from the stock of Australian Government regulation:

### *Native Vegetation regulations*

The Government's approach to the preservation of native vegetation has been to over-regulate landholders in order to provide a community benefit and appeal to the masses. The current regulatory approach to preserving remnant native vegetation is imposing a large cost on the farm sector

In many cases, red tape actually prevents farmers from effectively managing the native vegetation and biodiversity on their properties.

Covering a broad range of impacts upon farm businesses from lost or restricted development opportunities to fencing and pest control restrictions, these regulations have a unnecessarily negative impact on the ability of producers to grow and develop their farming businesses.

The VFF is concerned that these regulations are impacting heavily on the social, environmental and economic success of rural and regional businesses and communities. Regulations are too blunt an instrument to successfully achieve effective environmental outcomes, and the VFF believes that the cost of regulation, assessment and enforcement of compliance is likely to exceed any environmental gain achieved from the regulations.

A description of native vegetation regulations and restrictions which currently inhibit the growth and general operations of the agricultural businesses and rural communities in Victoria follow below:

### *Victorian Planning Provisions*

New technologies to improve the efficiency of agricultural production are continually being developed. Many new farming technologies and techniques can provide environmental benefits to the property and the region in addition to economic benefits to the

farmer. However, in order to adopt these technologies in the current on-farm environment, the removal of some native vegetation may be required. The Government has a three-step approach for assessing clearing decisions:

- To avoid adverse impacts, particularly through vegetation clearance;
- If impacts cannot be avoided, to minimise impacts through appropriate consideration in planning processes and expert input to project design or management; and,
- Identify appropriate offset options

While this approach appears reasonable, the practical implementation of these guidelines is quite the opposite. The main problem with the assessment process for native vegetation applications is that there is no requirement to undertake a 'triple-bottom-line' assessment of the application, as opposed to the vegetation removal or even a wider assessment of environmental costs and benefits. Applications are assessed according to loss of trees and their conservation status. Therefore, a development which may propose a valuable water saving option for a farm, a valuable economic development for the region, and can provide significant offsets as compensation, may still be refused because the native vegetation to be removed is assessed as significant.

It is costly and time consuming for an applicant to work their way through the planning application process for native vegetation. The Department of Sustainability and Environment (DSE) and local councils can request an environmental assessment be undertaken as part of the application, which can be a significant cost to the applicant. Often, the scale of the proposed development does not warrant the level of assessment. The VFF is aware of cases where it has taken almost two years for a council to make a decision on an application. Only when a decision is made can an applicant appeal. This situation must be reviewed. In its present state it is unworkable and represents a significant obstacle to regional economic development.

### *Fences and Roads*

Despite being granted exemptions within the Victorian Planning Provisions to undertake normal farming practices, many producers are often confused as a result of different councils having different interpretations of the exemptions, particularly on roadside or Crown land boundaries. It can be time consuming to obtain approval from a council to enable the producer to remove the necessary trees or even branches along a boundary fence line in order to erect a new fence. Some producers have been requested to move their boundary fences further inside their properties to avoid removing any trees.

Restrictions on the lopping and removal of native vegetation along roadsides are also resulting in access and safety problems for producers seeking to move large machinery on rural roads.

The requirement to seek permission from the Department of Sustainability and Environment for the removal of native vegetation for vermin control is bureaucratic in the extreme. Before removing vermin, which is a legal obligation for landowners under the Catchment and Land Protection Act, a producer must contact the DSE to obtain written permission to remove any native vegetation covering the burrow. This is an unnecessary imposition on the basic operations of a farm-business endeavouring to comply with the law and needs to be abolished.

### *Road Infrastructure*

Native vegetation regulations have a negative impact on the provision of road infrastructure to rural communities. The requirement for the provision of "offsets" to compensate for native vegetation removal on road reserves is adding significant costs to road developments. Road reserves are likely to have good quality native vegetation and therefore, VicRoads and

Councils, when seeking to construct roads face significant 'offset' costs. In some cases, agricultural land must be purchased for the road instead of utilising the road reserve and removing native vegetation. Where native vegetation is removed, additional land may need to be purchased for revegetation works as compensation. With these additional costs, road developments in rural areas will become increasingly unattractive for Councils and VicRoads who are trying to maximise limited budgets.

A more flexible approach to native vegetation conservation may achieve better environmental outcomes at a lower cost to the farm sector.

All native vegetation biodiversity policies should be subject to ongoing monitoring and regular independent reviews of all costs and benefits, in the light of articulated objectives. Reviews of performance should be monitored by the Auditor-General and the results published.

Ongoing efforts are required to improve the quality of data and science on which native vegetation and biodiversity policy decisions are based, particularly 'on-the-ground' assessments to test the accuracy of vegetation mapping based on satellite imagery.

Current regulatory approaches should comply with good regulatory practice, including:

1. Clear specification of objectives of the legislation so that guidelines and decisions clearly link back to these objectives, and performance of the regimes can be monitored and assessed;
2. Minimisation of duplication and inconsistency by amalgamating and simplifying regulations and permit requirements, for example, by rationalising legislation and regulation within each state and territory and/or by coordination between agencies;
3. Assistance to, and education of, landholders to meet and to understand their responsibilities by providing information about those responsibilities, and how they relate to sustainable land-management practices and environmental problems;
4. Statutory time-frames for assessing permit applications;
5. Consideration of economic and social factors where application to clear would otherwise be rejected on environmental grounds (a 'triple bottom line' approach), with reasoning for decisions to be provided and reported; and
6. Provision of accessible, timely and impartial appeals and dispute-resolution mechanisms.

Greater flexibility should be introduced within existing regulatory regimes to allow variations in requirements at a regional level. To this end:

1. Greater use should be made of the extensive knowledge of landholders and local communities;
2. Regional committees and bodies should be given greater autonomy (and support) to develop appropriate requirements; and
3. Some across-the-board rules, particularly those currently applying to native vegetation regrowth, should be relaxed and replaced with requirements that meet environmental objectives but which reflect regional environmental characteristics and agricultural practices.

As a matter of priority, governments should seek to remove impediments to, and facilitate, increased private provision of environmental services. Actions could include:

1. Removal of tax distortions or lease conditions that discourage conservation activity relative to other activities;
2. Removal of barriers to efficient farm rationalisation and/or management and operation;
3. Research into, and facilitation of, sustainable commercial uses of native vegetation and biodiversity; and
4. Enhanced provision of education and extension services to demonstrate to landholders the private benefits of sustainable practices.

Public-good native vegetation and biodiversity objectives ideally should be fed through regional institutions to promote coordination and consistency of approaches and, therefore, least-cost 'joint' solutions.

### *Stock on Roads*

The rules and regulations governing stock movement on roads in Victoria vary significantly between local councils across the State. Movement of stock should be considered a 'right to farm' issue, and movement of stock between farm properties along council roads should not require a permit from Council.

Some producers are required to obtain and pay for a permit to move stock, while others are not. Some producers are required to provide a range of documentation with their permit application including public liability insurance coverage and / or a bond, and permits can take a long time to be approved by Council. Producers moving stock from property to property between Councils are often required to seek two permits, to cover movement in each municipality, with two different sets of requirements to fulfill. The regulatory regime which is currently in place lacks consistency and unfairly administers local laws, penalties and permits relevant to Victoria's livestock movements.

Producers should not be charged for permits which enable them to move stock on roads within their own shire, given that producers pay significant rates to council each year for minimal services provided on agricultural land. Ideally, Councils and VicRoads should form partnerships with organisations such as the VFF in order to ensure producers are informed of their obligations when moving stock on roads.

This should be an 'as of right' action for producers provided they use appropriate signage to provide legal protection in the event of an accident. 'Stock on roads' guidelines already exists to provide information about appropriate signage when moving stock on public roads. Permission should be negotiated with VicRoads for movement of stock on major highways to ensure that safety issues have been considered.

The VFF proposes that all permits and fees currently required by regulations governing the movement of stock between farm properties must be abolished.

### *Planning Permits*

Farmers are concerned about the increase in the amount of information required in order to obtain planning permits, and building permits, from councils for the construction or demolition of low occupancy sheds.

The requirement for additional engineering drawings, inspections and maps can impose a significant additional cost to farmers seeking to expand or develop their farm businesses. This is in addition to the fees payable for permit applications. As more activities on private land require permits, so the costs to the individual or business increase. The level of intervention is often excessive considering the potential impact of the activity on the site.

The VFF proposes that the Government reviews the requirement for planning permits and building permits for a range of activities related to farming, (such as the construction or demolition of sheds) on private land. In circumstances where planning and building permits may be considered necessary, it is important that information and inspection requirements are commensurate with the potential impact of the activity.

The VFF urges planning authorities to consider relaxing current permit and building regulations associated with low occupancy farm buildings.

## *Regulation of genetically modified (GM) foods and crops*

The VFF's biotechnology policy was developed in 1999 and was subsequently presented to its 15,000 member farm businesses. The policy strongly supports a national regulatory framework for genetically engineered organisms. The VFF believes that only a rigorous and transparent national framework can ensure products are assessed on a science based case-by-case basis.

The VFF supports the Commonwealth Legislation which provides a single, national, regulatory system for genetically modified organisms (GMO's).

Once products have been approved through the national system, there needs to be a clear pathway to market which should be handled through recognised industry mechanisms, such as the grain supply and segregation system which is already well established. While there is a role for Government during the initial stages of development of these plans, any post-2008 market issues are the responsibility of industry.

The imposition of state-based moratoria has severely obstructed the intent of the Federal Act. Consequently, there is no nationally consistent scheme for the regulation of gene technology in Australia. Efficiency and coordination cannot be achieved until a product approved by the national regulator is commercialised. The VFF is supportive of the national framework, and would prefer to see the amendments recommended in the national review being implemented as soon as possible.

A moratorium on the use of Genetic Modified canola currently exists in Victoria. The legislation prohibits both commercial release and commercial scale coexistence trials for any GM crop variety.

Legislation governing this area of grains production is detailed within the *Control of Genetically Modified Crops Act 2004*.

This legislation was introduced despite the Australian Office of the Gene Technology Regulator authorising the commercial / general release of both InVigor and Roundup Ready canola respectively. The Gene Technology Regulator's assessment at the time determined that there was no significant human health or environmental safety issues of concern in regards to the release of GM Canola.

In addition, countries including Canada, America and Argentina currently allow the growing of GM canola as well as many other varieties of GM crops. Other countries such as Brazil have also been permitted to grow GM crops. Important export markets for Australian grain such as Japan, the EU and China also allow a number of GM crops to be imported.

This moratorium prevents producers from being able to access and utilise new farm production technologies, and also reduces the commercial incentives for others to invest in research in this area.

There are many small Australian companies which have invested in GM crop research. Unless there are avenues to commercialisation, these companies will have to sell off their technology or move out of this research field altogether. Such a situation could put jeopardy Victoria's progress in the adoption and accessing of new higher yielding, disease tolerant and specialty crops.

It is also important to avoid creating barriers to research which would otherwise benefit agricultural animals and the community. If Victoria is going to continue to lead the world in this research, it is necessary that we do not have onerous and restrictive regulations and codes of practice. The moratorium is stifling Australian agri-biotechnology research and development, and the VFF urges the Victorian Government to abandon the moratorium on GM canola immediately.

## *Taxation*

Taxation is an area of huge regulatory complexity for farmers, adding hours each month to the administrative burden of running a farm business. The VFF supports a simplification of the taxation system in order to ease the onerous regulatory burden associated with it.

In Australia, where taxes are imposed by several layers of government, the overall competitiveness of the business tax environment depends on the connectivity between the various tax systems. With Australia's intergovernmental fiscal arrangements having developed in an often ad hoc manner, the resultant complexity and inefficiencies have created an additional burden on businesses.

A Business Council Australia report on business taxation in Australia has found that the country's business sector is being increasingly weighed down by a tax system which is inefficient, overly complex and levies too many taxes for little return.

The report, ***Tax Nation: Business Taxes and the Federal–State Divide***, by the Business Council of Australia (BCA) and the Corporate Tax Association (CTA), highlights numerous problems with the current system arising from the division between federal and state tax systems, and calls for a major rethink on business tax across governments.

Among the report's findings was that Government's impose 56 different taxes on business including 21 federal taxes, 33 state and territory taxes and 2 local government taxes.

This compares to the United Kingdom, where a similar study found that in an economy three times the size of Australia's, business paid only 22 different types of taxes – less than half the number of taxes facing Australian businesses.

Taxes that are applied in multiple States and Territories, such as payroll tax and conveyance duties are counted only once, even where they operate under different rules in every State.

## *Occupational Health & Safety*

Although there are some large company farms, the reality is the majority of farms in Victoria are family farms, and farm safety is very much a family issue for farmers.

The VFF is concerned that the problems associated with OH&S regulation are such, that workplace risk is simply being shifted to being the sole responsibility of the farmer, rather than being shared with employees as opposed to meeting the objectives of removing workplace risks in totality. The nature of the regulation is seen as an employee regulatory matter, rather than having the more appropriate focus of implementing behavioural change in the workplace for productivity growth purposes.

## *Transport infrastructure regulations*

Transport networks are severely dislocated across Australia, and are riddled with inconsistent, duplicated regulation.

Transport regulations directly impact upon the day-to-day operations of almost all producers.

Examples which concern farmers include:

- Travelling on roads with farm machinery at night.
  - cost of compliance to not travel on roads at night
  - new technology means more night work

- Grain harvesting in fire season (code of practice needs to be workable)
- Varying speed rules between States and Territories
- Inconsistencies on where and when timesheets for trucks are required
- B double and road train access issues
- Lack of consistency in cross border permit issues
- Vehicle registration rules prohibiting movement of oversize augers etc
- Differences in load definitions applying between States
- Regulations on securing loads

### *Weight, Height and Length Limits on Regional Roads*

Weight, height and length limits on regional roads are a major issue for Victorian agricultural and horticultural producers. Current regulations can, in some areas make it effectively illegal to transport produce or move machinery from one farm to another using these roads due to the setting of extremely low limits. These limits must be reviewed.

### *Closed Roads*

Some roads can be declared closed to farm vehicles. This can make it extremely difficult for agricultural producers when they are moving machinery from one farm to another.

### *Dimension Limits*

VicRoads determines dimensional limits for agricultural machinery operated in Victoria. In one boundary a grower can transport a vehicle up to six metres wide but if the business property crosses the highway into another boundary, the limit in that boundary is 3.5 metres. As a result, this means that each time the machinery crosses the boundary, a permit costing \$48 is required. When conducting regular farming operations, it is not uncommon for a farmer to move machinery between properties 2-3 times per day. Clearly, these regulations are impractical and must be removed.

### *Vehicle Overloading*

Vehicle overloading is another important issue for agricultural producers. Trucks loading produce in the field do not have access to suitable weighing facilities, and it is not until the goods are transported to weighbridge facilities that weights can be assessed. The level of enforcement and penalties for overloading vary between regions. The VFF proposes that a 15 per cent tolerance be introduced from the point of loading to the nearest available weighbridge on route, in an effort to address this problem.

### *Vehicle Registration*

When registering a road vehicle with VicRoads each registration is given a GVM Gross Vehicle Mass (tare weight + load = gross weight). Tractors do not have a GVM since they only have a tare weight. On existing road vehicle registration forms, there is a box which asks producers to list the GVM. Due to the fact that producers are leaving this box empty, VicRoads employees are currently placing the tare weight + 1kg in the GVM box. This causes

problems for producers when the driver of the tractor with a GVM of 4.5 tonnes or over must have an endorsed license.

The VFF is aware of a driver who was recently pulled over who did not have an endorsed license and was fined \$500. GVM on that vehicle was 5.03 tonnes. The VFF does not dispute that the GVM rule should be on trucks but they believe that it should not exist on farm machinery that only has a tare weight. Some producers often have similar size tractors that do not have a GVM but can be driven without endorsed licenses. It has become apparent that the enforcement of this regulation varies depending upon who within VicRoads registers the vehicle. Tractors are now having GVM's just to put a tick in the appropriate box. Clearly, the confusion in regards to this issue is prohibiting efficient farm business operations.

The VFF proposes that farm machinery which has only a tare weigh must be exempted from requiring a Gross Vehicle Mass classification.

### *Livestock loading*

While there are volumetric livestock loading schemes in Victoria and Queensland, no equivalent scheme exists in NSW. This adds an additional level of complexity and cost to interstate transport. There are 750 separate agencies across the nation responsible for controlling Australia's 800,000km of roads, representing a \$100 billion asset.

The VFF urges the National Transport Commission to encourage the introduction of volumetric livestock loading schemes in NSW in the interests of national uniformity.

### *Compliance*

While regulations may be framed with good intentions, regulators need to recognise the additional complexities faced by farmers in isolated rural areas.

Small farms do not have the capacity to dedicate resources to record keeping, compliance and other administrative tasks, and such work creates a burden on farmers and impacts on the productivity of the farm.

Farmers may not be as computer literate as their urban counterparts, and in some cases must use this means of communication to comply with regulatory and taxation reporting. In addition farmers often have to deal with an inferior communication infrastructure. Broadband internet is not widely available in rural areas and should the line drop out when a farmer is filling out a BAS statement online, they have to start the application process again.

Farmers in rural areas often find it difficult to call government departments, are unfamiliar and inexperienced with procedures and can be intimidated in their dealings with bureaucracy.

The VFF proposes that government departments should adopt customer service charters which include measures to improve services. These could include initiatives such as providing a 1800 telephone number and guarantee that calls can be expected to be answered within three minutes.

Waiting times could be reduced through the implementation of call-back systems allowing farmers to leave their contact details and then continue working on the farm, instead of being left on-hold for long periods of time.

Distance is an issue for farmers in regional areas. One example is that some farmers need to travel substantial distances to renew licences, collect permits and complete other

administrative tasks. This is both inconvenient, time consuming and can place substantial costs on a business. Farmers need the option of viewing forms online and being able to choose between a range of options in completing the forms, such as on-line, by fax, or mail. Ideally the number and size of forms needs to be reduced as much as is practically possible.

'Chain of responsibility' (COR) legislation introduced in some states (NSW, VIC and QLD & SA) brings compliance issues to the fore, and gives enforcement officers from a variety of fields the capacity to apportion blame throughout the transport task and gives access to operator's records (or lack thereof), to prove innocence or guilt. The solution is for operators to implement definitive management systems, policies, procedures and record systems that are more user-friendly and easier to understand.

In the current business environment, governments are reducing the amount of enforcement that they are willing to fund, and making compliance with regulations the responsibility of farmers.

This makes it vitally important that farmers are able to prove compliance with accreditation regimes, the tax laws, occupational health and safety and the wide range of daily operating responsibilities.

Farm business need to be able to produce records that prove they have been operating in accordance with the laws and regulations.

For example, farm operators may need to prove;

#### *Adherence to driver fatigue management systems*

The COR requirements have shifted some of the burden of compliance on to rural producers.

This effectively makes one business partly responsible for the performance and compliance of a separate business entity. It is unreasonable to expect a farm business to police the actions of a separate business.

#### *Planning and Development Regulations*

Planning regulations often restrict the ability of agricultural and horticultural producers to expand and operate their farm businesses in Victoria. Restrictions placed upon producers appear in numerous forms such as: Federal, State and local government legislation, statutory requirements, zoning requirements, industry related Codes of Practice and permits and licences.

The sheer volume of regulation constitutes an operational nightmare for producers seeking to run a profitable and sustainable farm business. Planning regulations are limiting the ability of the Victorian agricultural community to reach its full economic potential. Outlined below is a list of planning regulations which currently inhibit the growth and operation of the agricultural businesses in Victoria.

#### *Overlays and Zoning Changes*

Councils have the ability to apply overlays or change the zoning of privately owned agricultural land. This can have implications on how producers can utilise their land. The process of consultation prior to applying any overlays on private land needs to be improved to ensure the landowner has the opportunity to consider and object to additional restrictions on land use. For example, the Environmental Significance Overlay requires farmers to obtain

a permit to construct a fence or a building unless it is specifically stated in a schedule to the overlay that this activity is allowed.

Better communication is required to ensure farmers have sufficient time to review zoning proposals.

### *Green Wedges*

The Melbourne 2030 initiative has included the development of two new zones for the non-urban land around Melbourne, the Green Wedge Zone and the Rural Conservation Zone. These zones have now been applied to much of the non-urban land around Melbourne that has not been targeted for urban growth or industry.

Landowners under the green wedge zone have strong development restrictions. The purpose of the zone includes the following:

*“to recognise, protect and conserve land that is adjacent to urban areas for its agricultural, environmental, historic, landscape, recreational or tourism opportunities, or mineral and stone resources... [and] to maintain the opportunity for productive agricultural uses.”<sup>1</sup>*

The zone constrains producers from non-agricultural pursuits on the land. However, the planning provisions do not provide any support for the farmer's 'right to farm' in these areas. Urban development is often established alongside farming properties and as a result, producers are now facing a number of problems when trying to conduct normal farming operations in these areas. Such as:

- Almost no opportunities to expand and objections from neighbours and councils to proposals to build new infrastructure necessary for expansion;
- High local government rates;
- Complaints from neighbours about smell, noise and dust;
- Weeds and vermin resulting from poor management of public land and absentee private landowners;
- Vandalism and theft;
- Urban dogs attacking livestock;
- Subdivision and new land acquisitions are prohibited;
- Bureaucratic impositions on farm business from all levels of Government; and,
- Development of major roads through farmland, restricting movement of machinery and stock between properties

In many cases, the strict protection of agricultural land under the Green Wedge Zone is actually the protection of farmland which cannot be viable due to the above impacts. There are no supporting policies offered by Government to assist with amelioration of 'right to farm' concerns.

Producers in the Rural Conservation Zone are even more constrained in what they can do. Any change to the type of farming enterprise they wish to undertake, including increasing stocking numbers for livestock requires a permit from council. If they are operating on a small acreage (under the 40 hectare minimum) they are not permitted to rebuild their home on the block following an event such as a fire.

The introduction of Green Wedge Zone has also disenfranchised sections of the broiler industry by preventing the subdivision of land as a small farm exit strategy. By overriding local government strategies, such as the Mornington Peninsula Broiler and Egg Farm Policy, the impact of the Green Wedge is working contrary to the apparent aims of the Government

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<sup>1</sup> Source: Victorian Planning Provisions 35.04 Green Wedge Zone

initiated Victorian Code for Broiler Farms (VCBF), which is to see the chicken industry develop in areas with lower population densities.

This introduction of the green wedge is preventing the timely closure of encroached farms and a transfer of this growing capacity to farms who do not have the same level of community issues are able to operate more efficiently. Seriously encroached farms in the Mornington Shire that were intending to close down, will now be forced to continue to operate. Without the capacity to recover at least some of the significant capital loss incurred by the removal of the broiler sheds, the farm owners are compelled to keep the farms operating. This prevents an appropriate and fair outcome for the community and the sector from being achieved.

Green Wedge Zone legislation has also negatively affected the Victorian egg production sector, by preventing producers from changing production systems, or changing their cages, to comply with the recommendation of the Agriculture and Resource Management Council of Australian and New Zealand (ARMCANZ) in August 2000 within the zone. It is now not possible for a producer to change from caged to free range egg production in a green wedge. Wide discrepancies also exist in the area of changing cage systems. In the Mornington Council for example, the Local Council informed a producer that they did not need a permit to alter their cage system in the shed but later took the producer to court for not having a permit. Such inconsistencies must be eradicated to ensure a stable business environment is provided for the Victorian egg sector.

Victorian egg producers also have to operate with a 400 metre buffer zone around their farms in green wedge, and some cases, other zones as well. This buffer zone standard was implemented by the EPA because egg farms were considered part of the poultry sector. Despite clear differences existing in regards to the operations of both the poultry and egg industries, the EPA has given no justification, scientific or otherwise for this operational restriction, and the VFF proposes that the restrictions be removed.

### *Centrelink*

Even with programs designed to support farmers such as Exceptional Circumstances (EC), cultural and geographic factors dictate that any application process must be as simple and straight forward as possible. During the recent drought, a number of problems in the application for support programs have been highlighted. These include:

- long waiting lists;
- lack of staff knowledge;
- The 100 points check required to confirm identification can cause difficulties for farmers under stress;
- long waiting times for applications to be processed and some applicants have been contacted several times for further detail;
- Estimates are sometimes required, while at other times they are not;
- Preparation of interim and full Exceptional Circumstance (EC) applications and interest rate subsidy applications are difficult and laborious. Duplication of paperwork is causing stress, and farmers are requesting that details be transferred to future applications.
- different claim forms exist for Farm Help and EC Relief Payments (which are both managed by Centrelink) and EC Interest Rate Subsidies (State Authority). There needs to be one assessment agency using the same form;

- once eligible for Centrelink payments, applicants then become eligible for various State concessions, however they must then follow up, find the relevant information and then make separate applications. Consideration needs to be given to altering this procedure so that a checklist is compiled which tracks applicants and automatically forward the necessary paper work.

While the VFF understands there needs to be a certain amount of rigor within any Government support program, it should not be placed at such a level that it dissuades those may be vulnerable and most in need of making an application.

As mentioned in the previous discussion on Compliance, the solution to such problems lies with government departments adopting customer service charters, including measures to improve services such as providing 1800 telephone numbers and guaranteeing that calls can be expected to be answered within three minutes.

### *Chemical and fertiliser regulations*

The prohibitive cost and time involved in the registering and developing of agricultural chemicals is slowing chemical innovations.

There are cross border variations in agricultural and veterinary chemical regulations. Such regulatory inconsistencies greatly increase the compliance burden facing farm businesses.

While some efforts are being made to harmonise the objectives of regulations between different States, no concerted effort has been made to harmonise regulatory processes or requirements. This issue is a high priority for a national reform agenda.

The chemical control issue is beset by over-regulation. The DPI chemical standards branch oversees the use and purchase of products on Victoria. These regulations overlap with Department of Health regulations. Occupational Health & Safety officers often interpret chemical storage and records regulations differently from DPI and DHS staff.

Maximum residue levels (MRL's) are set by FSANZ, however MRL's are also set by APVMA. To further complicate things, the Department of Human Services and local councils also have authority in these matters as well. It is in industry's best interest to maintain best practice and to ensure the safety of their produce.

Agricultural industries have their produce tested through a range of systems to ensure that chemical residue issues are managed appropriately. For instance:

Dairy – milk samples are tested for chemical residues;  
Grains – tested for chemical residues, protein and moisture levels, oilseeds are tested for oil content and profile;  
Horticulture – residue tested for ecoli and chemical use;  
Chicken – blood samples tested for salmonella, other bacteria and viruses;  
Eggs – checked for residues and for salmonella; and  
Livestock – fat scored and tested for residues and disease.

In addition to the tests undertaken by the industry bodies, there are also tests conducted by government through the Victorian Produce Monitoring Program (VPMP) and the National Residue Survey paid for by farmers through a levy both at State and National levels.

Reform through the harmonisation of regulatory processes and requirements is overdue, and the VFF urges that duplication in testing regimes be avoided.

### *Security Sensitive Chemicals*

The VFF is concerned about the potential consequences for farmers and indeed the entire food production sector if the Government fails to regulate efficiently. An example is the unfortunate impact of the restrictions on Ammonium Nitrate on Horticulture. Farmers cannot access the product and alternative fertilisers are significantly more expensive and less effective.

New regulations are currently being developed for the usage of fertilisers which contain explosive related properties. The agricultural community has concerns regarding the licensing, transportation and storage of these fertilisers, especially the requirements placed upon producers who utilise them regularly.

Possible conflicts exist between ACCC decisions and what is happening within industry with regards regulation which helps address productivity issues. For example, there is an excellent system already in place called AgSafe Guardian program.

One of the aspects of this program is it provides a tracking method for chemical purchases from accredited AgSafe stores. One way of ensuring this accreditation is being adhered to by chemical resellers, is the ability to be able to impose sanctions (from particular Australian manufacturers) should a chemical reseller refuse to become accredited or participate in the program. Unauthorised chemical resellers can still import chemical products, but they can no longer sell products manufactured by the Australian companies who participate in the program.

Not only does this provide a huge service to the farming community in relation to stewardship, such as ensuring they are given accurate advice, but it also would form the basis for any method of keeping track of chemical sales. Against industry wishes the ACCC ruled that the ability to impose sanctions was anti-competitive and has ruled to take away the ability in 12 months time. This is counterproductive to achieving outcomes desired by the community in reducing chemical containers in the environment.

The VFF suggests that producers who have a history of compliant use should be subjected to a less rigorous level of regulatory requirements.

### *Regulatory versus incentive-based programs*

There are many areas where behavioural change has been directed by regulation, in instances where an incentive based approach would have been more effective in producing outcomes in line with the policy intent, and share the costs more appropriately across all beneficiaries of the behavioural change.

For example, the recent introduction of the Victorian Aboriginal Heritage Bill places a regulatory burden on land managers to protect Aboriginal artefacts. The preservation of Aboriginal heritage in Victoria benefits all Victorians. Therefore the cost of preserving Aboriginal heritage should be borne proportionally, across the community, rather than imposing costs on one sector using regulation.

The Aboriginal Heritage Bill penalises and deters landholders from voluntarily advising authorities of possible heritage areas or objects, which they have identified on their property. Ideally, such land holders would be rewarded, or at least compensated, for

their actions, particularly if they are required to alter their management practices as a result.

Using an incentive based approach, it is more likely that farmers will more actively seek to identify and protect the location of Aboriginal artefacts, while imposing costs may be counterproductive to achieving this.

This Bill imposes many levels of regulation, process and bureaucracy, most of which will be funded by the private sector. The red tape associated with the draft regulations is excessive and clearly contradicts the State Government's commitment to cut red tape by 25 per cent over five years.

### *EPBC Act*

The operation of the *Environment Protection and Biodiversity Conservation Act 1999* Act has significant ramifications for agriculture.

Approval under the Act is required if an action has (or is likely to have) a 'significant impact' on certain matters, such as a matter of national significance. Concerns exist around the term 'significant impact'.

Despite its importance in the regulatory regime, the term 'significant impact' is not defined in the Act or regulations. Although the *EPBC Act Administrative Guidelines on Significance* and guidelines for specific species, go some way to clarify the meaning of significant impact using impact criteria, no guidance is provided on how a referred action will be assessed. Due to the gap between the Act's potential scope for and actual implementation, together with the use of the somewhat ambiguous "significant impact" as the referral trigger, there remains a degree of uncertainty about the Act's direct and indirect impact on landholders both now and into the future.

There exists much scope for improvement in clarifying the role of the Australian Government and the States and Territories regarding the environment. There remains too much duplication and inconsistency, particularly in relation to the listing and protection measures (and referral assessments and approvals) for threatened species and ecological communities.

### *Farm machinery compliance standards:*

Most Farm Insurance Policies now require compliance with Australian Standards (AS) for all farm equipment as a general condition of the policy. Non-compliance is adequate grounds for the insurer to refuse a claim. Australian Standards documents are not freely available and are relatively expensive, with most costing between \$50 and \$200. They are not available on the Internet or in public libraries, but must be made more freely available.

AS was privatised some time ago, and it is not possible to check Standards without paying for the documents. Most farms would need to buy many different Standards documents to cover all their equipment. Farmers would almost certainly need professional advice to understand them. Claims can be refused on the basis of a General Condition. This makes farming virtually impossible to insure. Inclusion of Australian Standards, via insurance policies, incorporates a new level of complexity into the regulatory burden on agriculture.

*National pollutant Inventory (NPI) - Australia's national database of pollutant emissions:*

National Pollution Inventory reporting has imposed a substantial and unnecessary red tape requirement through national requirements via state based EPA offices. The chicken industry was included in reporting requirements as a consequence of its use of American data. The American inclusion was due to the presence of large numbers of chicken farms very high concentrations in small areas, with different feed and litter use regimes from those in Australia.

A similar number of chicken farms are spread across the Australian continent. The requirement is completely unnecessary, and is now being used by other areas of Government to propose licensing/fines for pollution on the basis of NPI data, following guarantees provided to industry that this would not happen.

The NPI system was introduced following negligible consultation with industry. Farmers became aware of the inclusion of the chicken industry just days before the consultation process was completed. No forum was provided for consultation with authorities or to provide feedback. The consequent consultation regarding the NPI NEPM variations (eg litter transport), has again been negligible with no effort made to inform industry of issues/impacts, and no effort made to consult or listen to the concerns raised by industry.

NPI requirements have been implemented without any accountability from regulators and with no scientific basis. For example, despite being removed and recycled as an organic fertiliser, the NPI NEPM variations would require three different groups to record the transport of chicken litter (the farmer, transporter and end user). This is because the NEPM designers assumed, incorrectly, that all chicken litter is dumped in waterways. On the contrary, there is no effluent run off from chicken farms and litter is used by many agricultural enterprises as a valuable fertiliser and soil improver.

Farmers who report details of their security plans under Security Sensitive Materials provisions are granted anonymity, however if the same farmers report under NPI, they are treated as companies and their farm addresses are publicly available. This leaves family farms in a vulnerable position, and has given rise to attacks on farms by animal activists.

The regulations require greater flexibility in order to acknowledge that farms are homes as well as businesses, and do not enjoy the levels of security employed by companies such as Shell and Caltex. The rights to privacy of farmers in these situations must be respected.

*Food Standards Australia & New Zealand (FSANZ):*

FSANZ has acknowledged that regulation through codes of practice are only being considered due to a need to be perceived to be doing something (this is outlined in the first page of its justification for a production and processing standard for poultry meat).

Despite the fact that funding would be better directed at raising the level of public awareness about desirable food handling in the home, it would appear as though a huge regulatory burden will be placed on the chicken growers and processors.

This is totally unacceptable and unnecessary, and of little community benefit. What was intended as an interpretive guide for the broiler industry to assist in allaying any lingering concerns regarding the production and processing of chicken meat, has become a Code of Practice with legislative power under the Trade Practices Act. The development of the document is cause for concern, since those writing it have adopted a stance that, if

implemented, would decimate the entire industry. E.g. requirement for insect proof sheds.

The VFF suggests that such a heavy-handed approach needs to be reviewed and possibly abolished.

### *Farm labour*

Farmers often rely on migrant labourers (including temporary visitors and backpackers) in order to source seasonal workers. There are many unnecessary costs and complexities involved in employers taking on migrant labour. In particular, employers need to be assured that a potential employee is permitted to work in Australia.

Currently, checking of a visa and an applicant with the Department of Immigration is necessary to confirm worker's status. The VFF believes that this process could be facilitated by the Department of Immigration issuing visa holders with a work permit containing photographic identification stating work permit conditions. This would greatly reduce the compliance costs for farm employers wishing to utilise migrant workers.

Another example of over regulation is the Victorian Child Employment Bill. The resources committed to implementing this legislation would, in our view, have been better spent assisting farmers to identify and deal with the farm safety hazards for children on farms.

The VFF is concerned about the impact of regulations such as the Child Employment Bill, which forces grandparents to obtain a permit for their grandchildren to work on the family farm. Farms are workplaces; they are homes; they are places of recreation for the family.

The Child Employment Bill must be amended to allow grandparents to employ their grandchildren, without having to satisfy the onerous conditions presently required under the regulations.

### *Food Safety Programs*

All food businesses registered with Municipal Councils are required to submit a Food Safety Program when first registering the premises and subsequently on each annual registration date.

Food businesses may choose to develop their own independent Food Safety Program which is required to be audited by a certified Food Safety Auditor. Alternatively, food businesses can elect to use a standard Food Safety Program Template that has been registered with the Department of Human Services.

The Food Safety Program works well for larger organisations but tends to be too arduous and time consuming for smaller businesses. VFF argues strongly that the associated costs of compliance must not disadvantage small business.

Record keeping can be administratively complex and time consuming particularly in relation to process temperature logs, goods receiving and goods storage temperature. Often these tasks are being carried out but not recorded.

The Public Health Branch of the Department of Human Services has developed new Strategic Directions and conducted an Effectiveness Review. The branch has been restructured and the Food Safety Unit is now located in the Food Safety and Regulatory Activities Unit.

The VFF is concerned that the Food Safety Unit appears to make decisions on food regulation in isolation from local government, other Government departments and industry organizations, which all understand the issues affecting the industries concerned. There are also concerns relating to the inconsistent application and enforcement of food safety regulations across local council jurisdictions.

In November 2005, the Auditor General reported to the Victorian Parliament on follow-up audit which examined progress made by the Department of Human Services and municipal councils in addressing the recommendations of the 2002 report *Management of Food Safety in Victoria*.

The audit found some improvement in the regulation of food safety in Victoria, however, it also identified areas where further improvement is needed. Specifically, the Auditor General recommended:

*A. That DHS and municipal councils work together to address the work force issues that pose a risk to the effective administration of food safety regulation in Victoria.*

*B. That DHS and councils implement the outstanding recommendations from our October 2002 report Management of food safety in Victoria, particularly those relating to the statutory obligations of councils and statewide coordination of the regulatory framework.*

The VFF contends that there is considerable confusion caused by interpretation of the regulations by different local councils and their Environmental Health Officers.

### *Food Safety Plans*

Food Safety Plans are implemented at the retail level. Retailers and food service businesses have food safety plans which are audited by local government or DHS accredited auditors. Retailers need to satisfy the auditor that the suppliers from whom they purchase have food safety plans in place.

The major supermarkets require their suppliers to comply with the supermarkets' food safety plans. These plans are usually designed to fit with the risk management strategy of the supermarkets. These risks are usually higher than the risks of many of their suppliers since the supermarkets employ many staff who do not have a personal stake in the supermarkets' business and who, therefore, may not always follow food safety procedures as diligently as perhaps an owner or a farmer supplier.

Organisations or large businesses can apply to DHS for approval for a template. This template can be used by, for example, all egg businesses in their quality assurance program. Provided the QA program is audited by a DHS approved auditor, there is no need to separately audit the Food Safety Plan of a supplier (i.e. a farmer). This contrasts with the way rural suppliers are treated in some other States.

The exception to this process for farmers is when they act as retailers i.e. have their own shop on farm or supply farmers' markets. In both instances, the farmers are required to comply with the same requirements as other retailers for the retail side of their business.

This can lead to inconsistencies since Councils charge varying fees for the same audit of retail premises. The VFF proposes that all fees must be consistent.

Overlap and duplication of regulatory requirements impose unnecessary costs on businesses and ultimately on consumers. Small producers in particular face resource constraints and find it difficult to fund complicated regulatory requirements.

The costs of compliance are broader than just the costs of auditing and record-keeping. They also include: training of staff, licensing costs and extra equipment (e.g. monitoring

equipment). Compliance costs may also be a disincentive to innovate. VFF notes the case of a member who has decided against proceeding with the production of a product which is not presently available in Australia because the cost of establishing a best before date for the product is prohibitive.

Where producers are price-takers, it may be difficult for producers to pass on their increased costs to their customers.

Agriculture has many existing programs which deal with market or product differentiation. VFF does not see the need for food safety programs to address issues which are covered by other regulators or differentiate a product.

Some specific examples of industry programs are;

- Food regulation issues in the poultry meat industry are already covered through the commercial contract between the farmer and processor. In addition to having a contract, free range chicken meat growers are required to meet the requirements of FREPA (Free Range Egg and Poultry Australia Ltd).
- The Dairy Act 2000 and its subordinate 'Code of practice for dairy food safety' provides a framework based on these principles, and allows dairy businesses across the value chain to incorporate regulatory food safety requirements into business systems. In doing so, this streamlines the common objectives of both government and industry for safe dairy food production, without added regulatory burden. Furthermore, this outcome based framework, in contrast to the very prescriptive regulatory approach which existed previously, allows businesses to innovate and incorporate technology changes while continuing to identify and manage their food safety risks.
- Horticulture producers supplying major retailers are required to have a food safety program in place. These programs can be retailer specific or industry wide and are set at a standard which ensures appropriate food safety outcomes.
- The egg industry was the first agricultural industry to draw up a food safety code with DHS. The Code of Practice for the Production, Grading, Packaging and Distribution of Shell Eggs, and its processing equivalent, were launched in 1977. It has been implemented enthusiastically by industry and was adopted nationally from 1999.
- Issues covered by contracts and under the control of the company include the breeding of chickens, delivery dates of chickens to farm, animal management/welfare, feed, temperature monitoring, veterinary product use, pick up of the chickens and subsequent OH&S issues and transport.
- In the red meat industry, schemes such as the National Livestock Identification System (NLIS), vendor declarations (which relate to chemical use and adherence to withholding periods) and EU accreditations which have formed the backbone of the food safety in the red meat industry.
- In 2005, the red meat industry launched Livestock Production Assurance (LPA). This program has 2 levels. The first, LPA Food Safety (Level 1) relates to meeting requirements to guarantee the safety of red meat products. It is voluntary but the majority of producers have signed up. This program essentially packages up a number of industry systems into one program.
- LPA QA (level 2) includes additional accreditations such as CattleCare, FlockCare and will eventually include modules for Animal Welfare, Environment and potential OH & S. Any producer accredited for LPA QA will have already achieved LPA Food Safety

- accreditation i.e. by obtaining LPA QA status producers will have already met the more basic requirements of LPA Food Safety.

The VFF presents the following example to illustrate regulatory overlap and unnecessary administrative complexity:

The transportation of stock or produce from a farm requires compliance with the following agencies and regulations:

1. Food Safety regulations relating to the temperature levels of refrigerated transport, the number of cattle permitted to be transported, etc;
2. Animal welfare requirements regarding the feeding of cattle, number of cattle being transported etc;
3. VicRoads requirements through chain of responsibility, which concern issues such as driver fatigue, overloading etc;
4. OH & S regulations of the WorkCover authority, concerns such issues as falls from heights;
5. Quality assurance requirements governing transportation and loading;
6. Local council planning requirements regarding loading times;
7. EPA regulations governing animal faeces on the road, spilled fruit/produce;
8. Biosecurity regulations prohibiting dropping of grain on the road;
9. Fruit fly restrictions; and
10. Should the vehicle cross state borders it is subject to the regulations of another State.

Such an illustration emphasises the urgent need to eliminate unnecessary regulatory overlap and administrative complexity.

Where there are industry programs in place to ensure that food safety issues are addressed at an appropriate standard, the VFF believes that government should take a step back and intervene only in the event of a 'serious issue' and reduce or remove red tape associated with the duplication of proof of meeting a standard contained in regulations.

Perhaps all that is required is for government to ensure that local government employees receive comprehensive training in order to understand the current legislation. It may also be necessary to ensure that auditors accredited by DHS understand that it is not necessary to duplicate records. Ultimately, all HACCP and QA is based on the precept that 'any record is only made once'.

The table below lists the regulations covering Agricultural and Veterinary chemicals:

Labelling and registration	APVMA
Maximum residue limits (MRL)	APVMA and FSANZ. However, there are also residue requirements and withholding periods required which are monitored by markets e.g. dairy companies, grain handling companies, stock agents (Vendor decs) etc
Use of product on farm	State Authority as set by Control of Use legislation, WorkCover Authority, EPA, Departments of Health, Industry QA programs
Storage of chemicals	State Control of Use Authority, WorkCover, EPA, QA/EMS programs.
Record keeping	Storage reconciliation and MSDS required under WorkCover, but also under EMS QA programs, records of use of products required by vendor decs, state authority and local council as part of planning permit conditions.

### *Harmonisation of food regulations*

Victorian producers sell their products through a variety of networks and markets with substantial amounts sold into other Australian states. Mutual Recognition under the Australian Constitution ensures that there is recognition of State regulation and compliance requirements across jurisdictions.

Uniformity of food safety regulation has moved forward through the use of mirror legislation, but is still dependent on all States passing the legislation in a timely manner. The establishment and implementation of Primary Production Standards under FSANZ will mean that on-farm food safety standards will be similar in each State. The particular manner in which they are implemented in each jurisdiction may vary in line with each jurisdiction's current approach to food regulation. However, the costs of implementing the Standards should be minimised to ensure that farmers are not penalised for agreeing to follow the Standards.

These Standards are being addressed by industry sector, and will have to comply with the Codex Alimentarius requirements. This will mean that Australian producers will, by following the Australian Standards, be compliant with the minimum international requirements.

The VFF supports the harmonisation of these regulations providing there is sufficient flexibility to accommodate geographical differences, and to avoid additional red tape.

An example of this can be drawn from the egg industry, where regulations in Queensland stipulate that it is necessary to keep eggs at a different level of humidity from what is required in Victoria. Maintaining sufficiently flexible Primary Production Standards will ensure good food safety practices in each State.

### *Imported produce must meet Australian standards:*

Food imported from other countries must be subject to the same food safety standards which apply to Australian produced food. Countries including India and China as well as South American countries still use chemical products long since banned in Australia. It is also important to acknowledge the lower regulatory costs even in countries such as the USA.

In Australia, for instance, the use of animal litter as a fertiliser needs to meet EPA requirements, local planning requirements and QA program Food Safety Requirements. However, these requirements are not imposed to similar levels in some importing countries.

Importers of food products should demonstrate that an imported product does meet the food safety requirements of the Victorian community. VFF understands that when the Primary Production Standards are in place, imported products consumed in Australia will need to meet these Standards.

However, the issue of regulatory costs is important. This includes the cost of testing for food safety and chemical residues.

### *Multiple Regulation/regulators*

Other areas of regulation also contain elements which ensure food safety outcomes.

Some examples of other regulations are;

- Livestock disease control regulations;
- Biosecurity regulations;

- Special national and state disease management systems in the event of exotic disease outbreaks;
- Implementation of the FSANZ Production and Processing standards for specific industries. These standards will be implemented through the Department of Human Services and the Department of Primary Industries;
- Office of the Gene Technology Regulator (OGTR);
- OH & S regulations (Dangerous Goods, Hazardous Substances, Manual Handling, Falls from Heights Regulations); and
- Animal welfare regulations (Prevention of Cruelty to Animals (Domestic Fowl) Regulations 2006).

These regulations are targeted at a range of different issues and are all managed by different departments and different staff. The VFF is concerned that the lack of coordination and cooperation between agencies adds to the complexity of the regulatory environment and compliance costs.

It can also cause problems when responding to food safety issues when they arise. The VFF suggests that the number of regulators should be minimised as much as practicable. However, when specific farming expertise is required, the Department of Primary Industry needs to be involved in conjunction with other agencies, particularly in relation to food safety issues.

In the event of an on-farm food safety issue, the recognised industry body should also be engaged early in the process to assist the relevant Government agency and DPI to deal with the issue. Industry bodies have effective networks and industry specific knowledge that can be invaluable when dealing with problems at the farm level. This model has been utilised in exotic disease outbreaks and has proven to be extremely effective.

### *Associated regulation impacting on food producers*

Farmers are subject to substantial regulation across a variety of issues. All these regulations add to the costs of doing business and ultimately lead to increases in the prices paid by consumers. These regulations cover planning, noise and odour, native vegetation management, chemical management, Local Government bylaws and OH & S.

### *Regulation of community fundraising*

The regulation of food requirements for community, charity and sporting groups who attempt to raise additional funding through fetes and cake stalls are deemed to be unnecessarily onerous. VFF would like to see more flexibility in government regulation on this issue.

Requirements such as the completion of the designated Food Safety Programs, detailed labelling of ingredients and payment of registration fees place a huge burden on community groups. The Food Act dictates that registrations are issued annually, and food registration fees and fees charged for community group activities by local authorities vary widely across the State.

As identified by the State Government, there is currently a shortage of Environmental Health Officers (EHO's). The VFF believes that allocating officer time to monitor these community-based activities is not of high priority, given that EHO's are also responsible for compliance checks on restaurants and cafes, investigation of food poisoning incidents, enforcement of the Tobacco Act etc).

Small community groups, often isolated from local Council offices would benefit from a more simplified regulatory system. Failure to do so could result in damage to local communities if they are unable to continue conducting social fundraising events.

These requirements also lead to some absurd situations, for example, CFA volunteers and DSE staff cannot be supplied with any food except that prepared under a food safety plan. This creates huge problems, and anger, in bush fire affected areas at a time of great community and personal stress.

The following table lists the myriad regulations/legislation covering a horticultural farm

On farm area/action	Regulation/legislation
Land designated as farming	Local Council planning ( <a href="#">Planning and Environment Act 1987.</a> )
Green wedge restrictions	Green Wedge zoning (part 3aa-metropolitan green wedge protection part of Planning 00020 and Environment Act 1987)
Growing vegetables	Some councils require a planning permit to change land use e.g. grow vegetables.  ( <a href="#">Planning and Environment Act 1987.</a> ) However, an application for a planning permit may also be subject to objection
Water allocation	Water licence required Water Act 1989
Water storage	Permit required and licence for the dam. Rural water authority grants permit  Existing dams must be registered, dams originally encouraged as they are recycling dams. No consideration given difference between recycling dams and dams which capture water from waterways.  The owner of the land on which a dam is situated may be liable for all damage caused by the escape of water from the dam
Desalination pump – originally installed as community service style arrangement to control ground water levels	Desalination pumps installed built as per community objective to manage ground water now require a licence and pumping permit with annual charge.
Drainage pipes	EPA/rural water requirements
Forklift	Forklift licence required/training
Backhoe	Backhoe licence required/training
OHS – Machinery	WorkCover Act Engineering certificate for machinery in shed to prove safety
Chemical storage	Different take on storage requirements depending on Worksafe officer interpretation.
Manual handling	Risk assessment of all manual handling risks

Toilet and shower facilities (one toilet per seven people). Admin facility must provide disabled person facilities. Training of staff	In order to officially train staff to pack fruit the trainer must be officially accredited as the trainer.
Workcover, pay roll tax etc Industrial relations laws	Used to be able to provide packages, now far more inflexible in what information must be provided and how the info is provided.
Casual workers	VISA checks now the responsibility of the farmer. EVO's
Underage work	<i>Working with Children Act 2005</i>
Food safety	Cannot operate without a Food Safety Plan
Packing shed	Registered premises as a food processing facility.  There are state regulations regarding labelling which require every strawberry punnet to bear the name and address of the grower, plus a declared nett weight of the contents. The print size of each item is specified by regulation; consult your label printer to determine current requirements. Current practice does not include juice absorption pads sometimes seen in overseas markets. Punnets may contain 150 g, 175 g, 200 g or 250 g of fruit. Trays may contain 9 or 12 punnets.
Food storage	State Government
Cool storage	DHS
Fruit fly quarantine zones	Whole process individual certificates and audits to sell fruit off farm
Biosecurity	
Farm gate sales	Food handling/permit from council
Export certificates	AQIS
Blackberry controls	Permit required in some areas from local planning department, local CMA or DSE. Under the <i>Catchment and Land Protection Act 1994</i> the blackberry is a Regionally Controlled Weed in all Catchment and Land Protection Regions in Victoria except Mallee. Land owners in areas where blackberry is Regionally Controlled must take all reasonable steps to control it and prevent its spread on their land and the roadsides which adjoin their land.
Feral animal control	A permit must be obtained for control of most native species by shooting. The permit is called an Authority to Control Wildlife (ATCW).
Dog registered	If gun used to control pest animal the gun licence, locked and police inspected storage.  Local Government
Transport Travel with equipment between	VicRoads unregistered vehicle permit

properties/blocks	Tractor must be registered, some registered with GVM
Sale of product	Weights and measures come and audit the scales each year.
Shed safety equipment	Safety check every three months by an outside party. If not done prohibited from processing.
QA program send out sample of product to a lab for analysis of chemical residue (NATA accredited lab)	National Residue Survey and becomes Victorian produce monitoring programme.
Waste water run off from farm or packing shed	<p>A licence, as specified in the Environment Protection Act 1970, is required in Victoria from the EPA to discharge waste-water. There are several categories of licences, issued in accordance with the type of material discharged:</p> <ul style="list-style-type: none"> <li>• Sewage</li> <li>• Other organic - discharges from food processing plants and stock yards</li> <li>• Industrial - mostly inorganic discharges from all types of manufacturing and processing industries</li> <li>• Minor effluent - storm and gravel washing water</li> </ul>
Sewerage system for staff quarters	<p>The Environment Protection Act 1970 provides for the approval and management of septic tank systems. The installation and maintenance of EPA approved systems with a designed hydraulic loading of up to 5000 litres per day are managed by municipal Councils.</p> <p>Municipal Councils are responsible to:</p> <ul style="list-style-type: none"> <li>• Issue permits for systems to be installed or altered</li> <li>• Issue certificates to use septic tank systems</li> <li>• Ensure compliance with conditions on permits and certificates</li> <li>• Submit an annual return to the EPA containing information on septic tank system approval and inspection programs.</li> </ul> <p>Councils can only issue a permit for a system that has been approved by the EPA for use in Victoria. They must also refuse to issue a permit if the proposed use of the system would be contrary to any declared State Environment Protection Policy (SEPP), or if the site is not suitable or too small. A fee can be charged by the Council for issuing a permit for the wastewater treatment system</p>

## *Conclusion*

Victorian agricultural is being overwhelmed by a plethora of government regulation. Regulations covering native vegetation, farm management (right to farm), planning, industrial relations, farm safety, transport, water, health, animal welfare and indigenous affairs are all reducing the effectiveness of Victorian agricultural producers to operate profitable and efficient farm business enterprises.

The growing cost to government to monitor and enforce regulations also leads to fewer direct resources to schools, hospitals and roads which can otherwise benefit local communities.

While sensible, even-handed and transparent regulation can provide a necessary platform in shaping our economic and social affairs in a complex world, the VFF suggests there are a range of options available to address the problems associated with unnecessary and burdensome regulation. These include:

- rationalising the existing body of regulations, including the removal of superfluous rules that are rarely used. For example, it is reported that there are 1,600 pages of Tax Act legislation which are never used;
- imposing a requirement that any new regulatory proposal can only be introduced on the condition that a given existing regulation be repealed, or at least amended;
- that all regulatory proposals, likely to have a significant impact on business and the broader economy should undergo a detailed cost - benefit analysis;
- improvements that could be made to the current Commonwealth Regulatory Impact Statement process, including a more consistent utilisation of this tool by all public sector agencies, the release of statements for public comment, and allowing sufficient time for consultation by affected stakeholders as a result of any regulatory proposal; and
- intergovernmental co-operation to streamline duplicated and overlapping regulatory standards. It would be beneficial if the States and Territories followed the Commonwealth's lead and instigated their own regulation reviews.

The VFF is concerned about the prevailing general mindset which dictates that if there is an issue which needs to be addressed, then more regulation should be the first response.

This "regulate first, ask questions later" approach represents a fundamentally disempowering approach for individuals, and leads to bigger regulatory government. Therefore, regulation should be seen as the last resort after all other options, such as education, publicity, civil persuasion, self-regulation and other approaches, such as encouraging communities to collaborate to solve problems, have been fully assessed and found to be ineffective.

The VFF believes that the gains from economic reform are being gradually eroded by the escalation in the stock of regulation, which must be pared back to more sustainable levels.

Reducing not only the level of regulation, but more importantly the red tape and compliance costs of regulation, will enhance Victoria's competitiveness, and promote economic growth and investment

To achieve best practice, governments should employ regulations more selectively and explore other means to accomplish their goals, such as providing more consumer information or commercial incentives. Regulators should communicate more with the public and with those they regulate.

Many farms do not have the capacity to dedicate resources to record keeping, compliance and other time consuming administrative tasks, and such work creates a burden on farmers and reduces productivity levels on the farm.

When opting for regulations, preference should be given to market-based, performance-oriented or other innovative approaches, giving those affected more freedom to meet the goals behind the rules. More decisions should be based on scientific information and objective facts about the risks which regulators are attempting to reduce.

A by-product of this type of regulation is that compliance rates are likely to be higher, and farm businesses do not waste time and energy looking for technical loopholes to the letter of the law.