



Strengthening the future of the grass-fed cattle industry

## Red Meat MOU Review Submission

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### **MoU Review Background**

On the 19<sup>th</sup> of September 2018 the Red Meat Advisory Council (RMAC) announced that the Red Meat Memorandum of Understanding (MOU) which is the document that governs the red meat industry organisational structures was being reviewed nearly twenty years after it had been created.

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## Introduction

Cattle Producers Australia (CPA) ([link to background facts and Journey](#)), responds to a request from the Red Meat Memorandum of Understanding (MOU) Review Panel to formally submit its views following a recent meeting between CPA representatives and MOU Review Panel representatives. CPA notes the Review terms of reference and agrees that *'The Red Meat Memorandum of Understanding has been in place for 20 years and it is time to take a critical look at it to ensure relevance and that it is meaningfully contributing to growing the value and reputation of Australia's 75,000 red meat businesses. This includes the roles and responsibilities of all stakeholders within the Red Meat MOU.'*

The objectives of the Review are given as:

- How can a Red Meat MOU create real value for the intended beneficiaries of the MOU – Australia's red meat and livestock businesses?
- What should it look like in order to position the industry for sustainability, prosperity and position for future challenges and opportunities?

CPA notes the Review objectives outlined and will describe how the current red meat industry structure and operation would be reformed to better achieve these objectives.

## Executive Summary

CPA states that there are serious anomalies in the MoU which disempowers levy-paying grass-fed cattle producers.

One anomaly is that, unlike meat processor and live cattle exporter levy-payers, cattle producers have no direct representation or control over the collection or the expenditure of the compulsory levies they pay. The deficiency of representation has led to disaffection and disinterest where cohesion and involvement are needed in these times of rapid change.

This flaw in industry structure has led to the Red Meat Advisory Council (RMAC) proving to be dysfunctional at a time of crisis in the live export industry leading to a vacuum of representation and Ministerial advice on behalf of grass-fed cattle levy payers. Consequently, lower cattle prices severely damaged the prosperity to cattle producers while contributing to the prosperity of meat processors. Overstocking from cattle being held back for a season also impacted negatively on environmental sustainability and animal welfare.

The levy collection anomaly is compounded by the inability of Peak Industry Councils to adequately oversee and direct the expenditure of the levies paid by the sectors of the red meat industry that they represent under the provisions of the current Red Meat MOU.

CPA proposes and submits recommendations for a restructure of industry representation which will better 'create real value for the intended beneficiaries of the MOU' – in particular, the levy-paying cattle producers - thereby correcting the prevailing anomalies.

CPA recommends the establishment of a dual grass-fed cattle levy-payer's Company structure similar to the current dual Company organisational structures enjoyed by meat processors and live exporters. The dual Company structure proposed would receive and set transaction tax levies, oversee the expenditure of cattle transaction levies and represent and advocate on behalf of grass-fed cattle producers.

The new dual Company structure would provide assurance to cattle producers of their capacity to influence industry policy and reassurance to Government that the industry Research and Development (R&D) function would be clearly separated from any industry lobbying function. The restructure with direct representation would improve industry cohesion and lay a democratic foundation for the wider participation that is necessary in these rapidly changing and challenging times for the industry.

Structural commercial interest conflict has repeatedly brought RMAC's capability of providing effective representation into question, particularly in relation to issues where an industry-wide consensus is not possible, as the Senate Standing Committee on Rural and Regional Affairs and Transport pointed out in their 2017 Inquiry Report on the [effect of market consolidation of the red meat processing sector](#). (Chapter 5, paragraph 5.12 p93).

CPA recommends that RMAC be restructured to promote whole of red meat supply chain industry issues as unanimously agreed upon by its Peak Industry Council membership. As part of the restructure, the \$45 million currently controlled by RMAC would be relocated to the Peak Industry Councils in proportion to their contributions.

CPA recognises that price transparency is a fundamental component of a free market economy and an essential requirement in establishing a prosperous and sustainable financial future for the red meat industry. Consequently CPA fully supports the recommendations of the [Cattle and Beef Market Study Final report \(March 2017\)](#).

CPA also believes that continuing Research & Development is essential for the ongoing prosperity and sustainability of the red meat industry and that the red meat industry should be increasing its commitment to ongoing R&D.

Recommendations and a detailed explanation of the rationale for recommendations follows and the full set of CPA's formal Recommendations can be viewed at page 19 with further substantiation of the CPA Submission set out in the Appendices.

## **CPA Red Meat Industry MOU Review - Submission**

### **1. The Need for Grass-Fed Cattle Levy Organisational Structure Review and Change**

The current grass-fed cattle levy funded structures and systems were created in 1997/98 and the structures adopted reflected the state of thinking at the time. As a result of the fragmented and incomplete manner in which the 1996 Task Force recommendations were implemented, the current red meat industry funded organisational structures lack accountability and the structural division between industry sectors are unclear thus undermining the intent of the 1996 Task Force recommendations. (see Appendix 4)

The economic and structural environment in which the grass-fed cattle industry now operates has changed enormously during the 20 years since 1998. Collective organisational structures and systems pertaining to other rural industries such as pork, wool, grains, dairy, horticulture and a host of others were also changed and reformed in the late 1990s and the early part of this century, in response to the changing economic and market environment.

As can be seen from the material set out in Appendix 3 the red meat industry organisational structures and systems that preceded the current structures were changed and reformed several times during the last half of the 20<sup>th</sup> century in order to deliver the collective needs of the red meat industry as economic and market circumstances changed during those years.

As a consequence of falling membership and increased workloads, of Rural advocacy groups, particularly those Peak Industry Councils based on State Farmer Organisations (SFO) who rely on membership fees to fund their activities, face significant challenges in meeting their representative obligations to their industry sector which they represent. (see details in Appendix 4)

There is widespread industry consensus that as a result of the changed environment within our industry that has occurred since 1997/98 the current representative structures and systems need to be changed to meet the needs of the contemporary cattle industry. (see Appendix 5)

### **2. Organisational Structure Jurisprudence**

It is a fundamental tenet of organisational structure jurisprudence that the industry structures determine the outcomes produced and the manner in which the organisation operates and performs.

An organisational structure defines how activities such as task allocation, coordination and supervision are directed towards the achievement of the organisational aims.

The importance of organisational design and structure to the delivery of collective outcomes cannot be overestimated. It is conventional jurisprudential wisdom that outdated or dysfunctional organisational structures result in policy setting contradictions, role confusion and lack of coordination in policy delivery.

Under the current red meat industry organisational structure RMAC, whose membership is made up of the same disparate and competing sectors of the red meat industry that Meat and Livestock Australia (MLA) has obligations to, is meant to act as a one stop shop advisory Council to the government, but on important issues often cannot effectively carry out that role because a consensus cannot be reached when the commercial interests of its members are in direct conflict.

### **3. Submission Contentions**

For the reasons set out below, this submission contends that:

- Grass-fed cattle transaction levy payers are unrepresented by the current cattle Peak Industry Council (Cattle Council of Australia);
- the complex and convoluted industry structures and systems governing the collection and disbursement of grass-fed cattle marketing and R&D levies no longer meet the collective needs of the grass-fed cattle industry;
- grass-fed cattle levy payers believe that they are not obtaining value for the levies they are paying and the basis on which grass-fed cattle levies are collected and used needs to be reviewed as a matter of urgency;
- grass-fed cattle levy payers do not have sufficient opportunity to influence the quantum and investment of their levies;
- the current red meat industry governance arrangements, consultation and reporting frameworks do not adequately protect and/or meet the needs of grass-fed cattle producers;
- the current grass-fed cattle levy structures and systems need to be reviewed and restructured in order to enable grass-fed cattle producers to cohesively respond to emerging challenges such as the forces of globalisation, competition and increasing market placed differentiation in the supply chain. Cattle producers need to be well equipped and connected to participate in the industry to capture opportunities from marketing and R&D over the next decade;
- The red meat industry lacks price transparency and accountability.

The current levy collection and disbursement structures and systems are flawed and outdated and would not obtain majority support if they were put to a plebiscite in accord with the [Levy Principles and Guideline requirements](#) (also in Appendix 6).

### **4. Key Findings of the Senate Inquiries and ACCC Cattle and Beef Market Studies**

#### **4.1 2002 Senate inquiry Into Australian Meat Industry Consultative Structures**

Despite the recommendations of the [2002 Senate Committee Inquiry](#) into the Red Meat Industry Organisational structures there have not been any meaningful reforms.

The Senate Rural and Regional Affairs and Transport Legislation Committee reviewed the performance and appropriateness of the existing government advisory structures in the Australian meat industry in 2002 and the key findings and recommendations handed down by the Senate committee in relation to RMAC included:

The Committee recommended that:

- the Minister initiates discussions with signatories to the MOU concerning reformed advisory arrangements and following those negotiations the Minister engages in detailed and open consultation with all sections of the Australian meat industry on options for reform.
- any new advisory body established for the Australian meat industry be empowered to initiate advice to the Minister and that individual industry participants, whether represented on the advisory body or not, must retain the right to make representations to the Minister on any matter of concern.

The Committee recommended that:

- The Minister negotiates with signatories to the MOU on alternative arrangements for the disbursement of earnings of the Red Meat Industry Reserve Fund; and
- RMAC develop a detailed industry strategic plan, and that consideration be given to the use of competitive contracts to deliver elements of the strategic plan.

#### 4.2 Industry Structures and Systems Governing Levies on Grass-Fed Cattle

A Senate inquiry into Industry [Structures and Systems governing levies on grass-fed cattle](#) was called in response to cattle producer concerns about the effectiveness of current grass-fed cattle industry organisational structures in meeting their collective needs in the current economic climate and enabling them to maximise their ability to respond to profitability challenges and capture opportunities in marketing and research and development. This Inquiry brought to light significant concerns and recommended structural change to industry organisations.

The overwhelming majority of the individual submissions lodged on the Senate committee inquiries website called for a review of the current grass-fed cattle levy structures and systems.

The Red Meat Advisory Council (RMAC) submission 165 to this Senate inquiry noted the dramatic physical, social and economic and environmental changes since the current structures and systems were initiated in the 1997/98 restructure and noted the need for the red meat industry entities to adapt accordingly.

The RMAC submission to the Inquiry noted:

*“in the context of the changes and challenges outlined it would be very rare that any representative (or corporate) structure that was designed nearly 20 years ago— in the absence of some level of reform – continues to serve its customers with optimal efficiency.”*

The RMAC submission referred to the 2013 Meat Industry Strategic Plan (MISP) Mid-Term Evaluation, which states it was the first ever independent evaluation of the industry’s performance against MISP. The solution noted by RMAC as being worthy of consideration included:

1. A direct membership structure with a clear line of sight “between representative organisations and their members.”
2. Targeted, systematic focus in operations, noting that identifying and focusing on the highest priority issues for each sector is likely to yield quicker and/or more money from results to levy payers.
3. A sustainable funding base which RMAC sees as essential for the longevity of organisational bodies, noting that under the current red meat industry structures and systems, the *need for industry bodies to maintain sufficient capacity to deal with a wide-ranging portfolio of responsibilities has left little option but to deliver some of these activities via levy funded service Agreements.*

The [CCA submission to that Senate Inquiry No. 142 attached a 2012 report from Inovact Consulting](#), commissioned by CCA, which found that as a consequence of falling State Farm Organisation (SFO) membership and the convoluted SFO structure, CCA no longer truly or appropriately represented Australia’s grass-fed cattle producers.

The Inovact report found *“There are fundamental flaws in the existing system that disconnects cattle*

*producers from their national representative body. For example, while CCA receives RMAC funding and as such has to represent the interests of all grass-fed cattle producers, its ability to engage directly with all producers is constrained by its SFO membership.” (CCA Submission p48)*

The CCA submission also noted:

*“Cattle Council of Australia and other levy industry stakeholders (‘agreed’) that national producer representation required significant reform.” (p49)*

*“Evidence gathered from the strategy process, alongside the experience from the Indonesian live export ban incident, the loss of representation from the failing SFO model and the inadequacy of resources for CCA to deliver on its obligations under the red meat industry MOUs, collectively sets the scene for reform of structures and allocation of funding.” (P 49)*

The Senate Committee identified a series of gaps and flaws within the existing structures that underpin the levy system and noted inadequate transparency and a complicated system of structures blurring the roles and responsibilities of the various organisations.

Recommendation 1 of this 2014 Senate Inquiry recommended a producer-owned body be established and given the authority to receive and disperse the R&D and marketing component of the cattle transaction levies.

Recommendation 5 resolved that the RMAC should be dissolved and a new system be developed to manage and disperse earnings from the Red Meat Industry Reserve Fund.

#### 4.3 Senate Inquiry into the Effect of Market Consolidation on the Red Meat Processing Sector

A Senate Inquiry [Into the effect of market consolidation on the red meat processing sector \(September 2017\)](#) supported the findings of the 2014 Senate inquiry in relation to deficiencies in cattle industry representation by the existing peak industry bodies, this was highlighted in Chapter 5 of the report.

In Section 5.14 the Committee highlighted longstanding concerns that the structure of RMAC inhibits its role to effectively advocate for and represent an agreed industry position. It went on to point out *that the role and responsibilities of RMAC requires a comprehensive review leading to either substantial restructure or abolition (p92).*

The Senate Inquiry found that a contributing factor to the alleged abuse of market power by processors was a lack of the countervailing power of a strong financially sound cattle producer representative body. The report recommended the creation of a truly representative financially strong grass-fed cattle body to replace the CCA as the grass-fed cattle producer Peak Council.

In Chapter 5 of the 2017 Senate Inquiry Report the Senate Committee makes the following observations and recommendations:

#### **(Senate) Committee view**

5.67 *It is indisputably clear that following the implementation of the 1997-98 reforms, the red meat industry (and the structures that underpin it) has undergone significant change. The committee is firmly of the view that these structures no longer serve the purpose for which they were originally intended.*

5.68 *The committee recognises that enhancing value and representation for producers are central to any reform agenda, at the expense of the interests of intermediary bodies that service the industry.*



5.69 The committee recognises the initiatives undertaken by industry stakeholders to advance an agreement regarding the structure for a new grass-fed cattle producer body as evidence that the industry is able to initiate reform. The committee also acknowledges that strengthening the role of a new producer representative body (particularly in regard to its relationship with MLA) should be the first step towards greater structural reform of the industry. To that end, the industry's unity in relation to the need for a new representative body, and its current appetite for reform, provide the perfect environment to undertake a wider and more comprehensive review.

5.70 The committee acknowledges the work currently being undertaken by members of the Implementation Committee of Cattle Australia and others within the grass-fed cattle sector as they work toward structural change and identify a sustainable funding model for a new representative body which will deliver the services the grass-fed sector needs.

5.71 The committee does, however, question whether any new producer representative body will be able to operate effectively under the systems and structures that are currently in place. The committee is of the view that the existing structures, roles and responsibilities – particularly that of PICs in relation to MLA – require urgent reform.

5.72 It would be a tremendous disservice to levy-paying producers if the new representative body has to contend with the same resourcing issues, and face the same obstacles as the current PIC. However, the committee is also acutely aware that any reform effort will face resistance from those in the industry who have a vested interest in the status quo. To avoid at least some of these difficulties, the committee is firmly of the view that the funding source for the new body needs to be independent of both CCA and MLA.

5.73 It is the view of the committee that the proposed new representational body – called Cattle Australia for the purposes of this report – should be given the opportunity to work as intended. For the body to take on the role of a properly representative body, it needs to be properly funded and have the structure necessary to be truly representative and consultative. To this end, the committee recommends that Cattle Australia be provided with adequate independent funding as soon as practical. With decisions currently being made about the use of substantial amounts of levy-payers funds including on technology such as DEXA, the committee recognises that there is some urgency for a well-resourced Cattle Australia to effectively represent the interests of grass-fed cattle producers. Moreover, once operational, Cattle Australia will be able to make appropriate, informed decisions on behalf of their levy payers about price transparency across the supply chain. It will be in a position to effectively guide and assess MLA's performance in the expenditure of grass-fed cattle levy funds and to ensure greater transparency with regard to the use of levy-payers funds.

5.74 The committee recommends that the Australian Government support the grass-fed cattle sector in its efforts to establish Cattle Australia as the sector's new PIC. To that end, the government should provide appropriate funding support to assist Cattle Australia in its establishment and to support transitional arrangements with CCA.

5.75 As part of the transitional arrangements, Cattle Australia should develop an organisational and representative structure which is democratic and fully accountable to grass-fed cattle levy payers. Under the leadership and guidance of a remunerated skills-based board, this can be achieved by establishing:

- a membership and voting structure to enable levy payers a direct say in the utilisation and investment of their levies;
- a leadership body of elected members that reflects the unique geographic, demographic and economic makeup of this sector; and
- a transparent reporting system to enable levy-payers to trace the utilisation and investment of their levies.

5.76 Once Cattle Australia is established, with a membership structure in place, it should be officially recognised as the sector's PIC under the Australian Meat and Live-stock Industry Act 1997, and Red Meat MOU.

#### **Recommendation 4**

***The committee recommends that the Australian Government provide immediate support, including appropriate financial assistance, to the grass-fed cattle sector in its efforts to replace Cattle Council of Australia with a transparent and accountable producer-owned body as the sector's Peak Industry Council.***

#### **Recommendation 5**

***The committee recommends that the Australian Government officially recognise Cattle Australia as the grass-fed cattle sector's Peak Industry Council under the Australian Meat and Live-Stock Industry Act 1997 and Red Meat Memorandum of Understanding once it is operational and has a membership structure in place.***

5.79 As previously noted, the committee has concerns in relation to the complexity, and lack of clarity that exists in the relationships between industry stakeholders – particularly MLA and CCA as well as AMIC and AMPC – and their respective levy payers. While the committee recognises that the accountability arrangements under the MOU have proven to be complex and unclear, it is obvious that the lack of a coordinated, industry-wide approach continues to add to the confusion about corporate and financial responsibilities, including the ownership of technologies.

5.80 In addition to the lack of clarity between these organisations, the committee also has concerns about the way in which these organisations make decisions in relation to the expenditure of levy-payer funds. The committee notes, for example, that it would appear that the views of levy-payers have not been given primary consideration, even though the proposed expenditure on the development and implementation of OCM technology is substantial.

5.81 Under the MOU, in circumstances where services cover the whole supply chain (and unless otherwise agreed) MLA is nominated as the lead organisation. The purpose of allocating this leadership role to MLA is "to avoid duplication and improve operational efficiency". However, the committee recognises that the issue of OCM technology is a perfect example of where a lack of coordination and unity across representative groups results in confusion (and a lack of trust) on the part of stakeholders – particularly levy payers. It would seem to the committee, therefore, that the lack of clarity and coordination that currently surrounds the OCM technology initiative lends weight to the argument for review and reform of the MOU.

5.82 The committee questions whether organisations such as MLA, AMPC, AMIC and the CCA are actually collaborating, and working toward the good of the entire industry, or whether this has become another example whereby vested interests have overridden the important principles of transparency and consultation. The committee also upholds the concerns that it has raised in the past with regard to the matter in which the MDC operates, particularly given the substantial tax payer contributions involved by way of matching government funding.

5.83 The committee notes that stakeholders have long acknowledged the need for a strengthening of governance and representation arrangements for the red meat industry sector. Given the diversity of the industry, the committee recognises that full consensus may never be reached; what is abundantly clear, however, is that the current structures – as set out in the MOU – are not effective in meeting the 'collective' needs of the industry. What a growing number of stakeholders are also recognising, however, is that for the whole of the red meat industry sector to remain competitive, sustainable and prepared to take advantage of positive commercial outcomes, a thorough review of the MOU is required.

*5.84 It is vital that a broad consultative process be undertaken to review the MOU and the structural and representational relationships contained within it. The review should not contain itself to the views of the parties to the MOU and the review body should consult widely across the industry to establish a comprehensive understanding of the complexity of the structures, relationships and arrangements that shape the industry.*

*5.85 To this end, the committee recommends a root and branch review of the MOU. The review should include an examination of all aspects of the MOU; including all parties to the agreement as well as funding, planning and service delivery agreements, industry reserves and R&D. It should also examine the structural arrangements, financial management and operational effectiveness of the bodies that are current signatories.*

*5.86 The committee recognises that such a review will be complex and that it will have to consider the respective legislation and service agreements. At the same time, the review cannot be led by one sector of the industry. The committee has previously raised serious concerns about the role and representation of RMAC. Given that RMAC would be one of the organisations under review, the committee does not believe it would be the appropriate body to undertake such a review.*

*5.87 Instead, the committee recommends that the review of current institutional arrangements should be undertaken by a joint industry and government body. This representative body or task force should review the structural arrangements, financial management and operational effectiveness of the statutory bodies and the structures that underpin them.*

#### **Recommendation 6**

***5.88 The committee recommends that a joint industry and government meat and livestock task force be established to conduct a comprehensive review of all aspects of the Red Meat Memorandum of Understanding (MOU).***

#### **Recommendation 7**

***5.89 As part of the Red Meat MOU review, the joint industry and government meat and livestock task force should consult widely across the industry and consider options for reform.***

***5.90 The task force should present a report to the Minister for Agriculture and Water Resources within two years of its establishment. The report and its recommendations should be made public.***

***5.91 To ensure full transparency and encourage industry ownership over the reform process, the task force should endeavour to publish its preliminary findings during the review period as well as bi-annually.***

**Senator Glenn Sterle  
Chair**

#### **4.4 ACCC Cattle & Beef Market Study**

The investigation into an alleged buyer boycott at the new Northern Victorian Livestock Exchange in February 2015 prompted the ACCC to further examine the industry in a broader context and a cattle and beef market study was undertaken in April 2016. The study would examine competition, efficiency, transparency and trading issues in the beef and cattle supply chain. The ACCC's [Cattle and Beef Market Study Final report \(March 2017\)](#) handed down 15 recommendations. In summary the report noted that as the industry is the single largest contributor to the annual value of Australian agricultural production, it is paramount that it is competitive and efficient. Analysis of the market study revealed a number of issues which risk damaging transparency, competition and efficiency in the industry. In particular, the

report identified a lack of transparency of price reporting and carcass grading, and concerns about conduct affecting the competitiveness at saleyards.

#### 4.5 ACCC Cattle and Beef Market Study – Update Report

The Cattle and Beef Market Study – [Update report \(May 2018\)](#) reviewed the progress toward implementing the recommendations in the twelve months since the release of the Market Study. The report demonstrated that industry representatives have not acted on the recommendations and that progress has been very poor. The [ACCC in its media release](#) pointed out that the *“Inaction suggests that either industry participants do not understand the value of transparency, or it does not suit the interests of those who are in a position to make improvements.”* The report identified that 90% of cattle are sold through direct purchases from farmers and are not reported on, which the ACCC see as a serious risk to the efficiency of the industry. The ACCC were critical of RMAC and its reluctance to progress the ACCC recommendations and in fact RMAC denied industry had a problem.

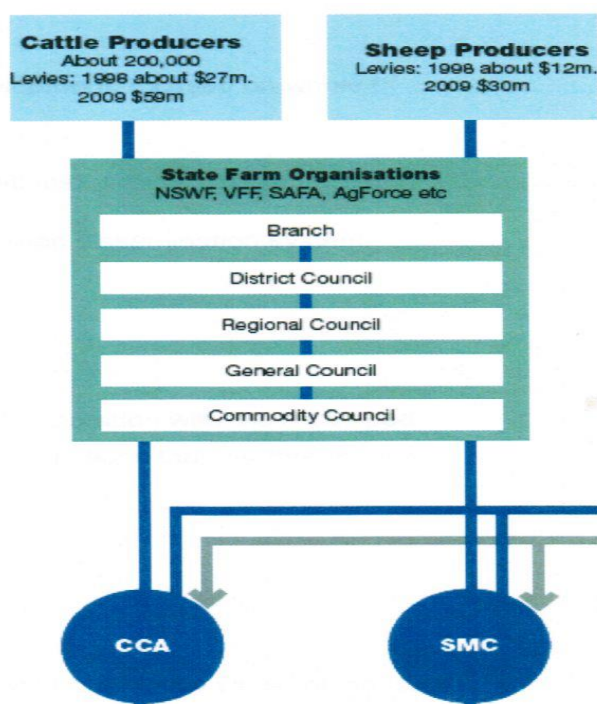
### 5. Peak Industry Council Representation

Back in 1996 a joint industry and government meat and livestock industry reform task force reviewed the Meat and Live-stock Industry Act 1995 to advise on 1997/98 industry restructure and many of those recommendations were ignored or inefficiently implemented (see Appendix 4).

As the 1996 Steering Committee noted *“The culture of an organisation is inevitably influenced by its ownership and accountability arrangements.”*

The Structure of many Peak Industry Councils are still based upon the 1950’s branch district, regional, state and national committee configuration set out in Diagram 1.

**Diagram 1 –SFO Structure**



This structure leaves representatives of those Councils who interface with government far removed from the rank and file.

It is important to note that a structure such as the model adopted by Sheep Producers Australia would not be a suitable structure for a cattle producer representative body.

The Inovact report commissioned by CCA and included in the CCA Submission to the Senate Inquiry into Structures and System Governing Levies identifies, on page 45 under the heading 'Imperatives for Change', the shortcomings of current Peak Industry Council arrangements through four major factors:

1. Performance
2. Industry strategy
3. Representation
4. Funding

Expanding upon point 3 Representation the report notes: *"The traditional State Farmer Organisation (SFO) model that provides the membership of the Cattle Council of Australia has become disconnected from the majority of levy payers. Low and declining membership of SFO's is now undermining the representativeness of the national body."*

The report goes on to state: *"Collectively, these factors provide compelling evidence that the current system has serious shortcomings. There is a sense across the industry of a need for change and improvement to deliver better outcomes."*

Inadequately funded SFO Peak Industry Councils whose source of income have been eroded because of falling membership have been required to carry out an expanded spectrum of responsibilities and consequently find it difficult to effectively perform their advocacy role. Consequently, MLA has had to take on a greater advocacy and management role of both marketing and R&D which has further confused the responsibilities of the peak industry councils and taken both the leadership and member control of industry away from levy payers.

The result is a dysfunctional divide between policy setting, which is meant to be the domain of the Peak Industry Councils, and policy delivery which is meant to be MLA's service provider role.

As a consequence of the inherent flaws the levy funded structures and systems do not meet the collective functional and representative needs of the grass-fed cattle industry.

The CCA organisational structure means that the membership of the Peak Industry Council is up to five (5) times removed from the membership of state farm organisations. This has inevitably led to grass roots members feeling disenfranchised and disempowered.

The Inovact report also points out that, *"The traditional model of farmers having national representation via their membership of a multicommodity State Farming Organisation (SFO) has been in decline across most states. In the grass-fed cattle industry, the long-term decline in cattle producer membership of SFO's has placed financial stress on both the SFO's and the Cattle Council of Australia. The trend is undermining the capacity of the Cattle Council to demonstrate that it represents a substantial coverage of the industry, which is critical to maintaining its role as a Peak Industry Council under the Red Meat MoU."* (P48)

The report goes on to say, *"The risk is that indirect communication with producers undermines the capacity of the Cattle Council to be responsive to cattle producers and to engage them effectively in policy development."* (p 48)

Since RMAC is theoretically controlled by the Peak Industry Councils, members feel that they have little ownership of, or say in, the important decisions that affect their livelihood, such as the importation of beef into Australia from BSE affected countries and the expenditure of statutory levies.



## CPA Recommendation 1

**That the Australian Government provide immediate support, including appropriate financial assistance, to install Cattle Producers Australia Ltd (CPA) as a truly representative, directly elected and accountable grass-fed cattle transaction levy payer's advocacy body to replace CCA as Australia's grass-fed cattle producer's Peak Industry Council.**

### Explanatory Note:

The above recommendation is in accordance with recommendations 4 and 5 of the Senate Inquiry into The Effect of Market Consolidation of the red meat processing sector September 2017. CPA is the registered Company referred to as Cattle Australia in these Senate Recommendations.

## 6. Meat and Livestock Australia

The difficulty facing grass-fed cattle producers with respect to oversight of the investment of the cattle transaction levy was recognised in the September 2017 Senate Committee Report on the Senate Committee's Inquiry into the Effect of Market Consolidation on the Red Meat Processing Sector. At page 100 the Report refers to former Agriculture Minister Barnaby Joyce's July 2015 [opinion piece](#) statement in his response to the 2013-14 Senate Committee Inquiry into Grass-Fed Cattle Transaction Levy Funded Structures and Systems Report where he gave an assurance that any new cattle producer industry organisation when established would have a greater oversight over how the levy is invested by:

*'seeking to update the industry Memorandum of Understanding to strengthen the rights and responsibilities of the peak industry council'*

As was stated in the conclusions and recommendations of the [Acil Allen Consulting report](#) in their April 2016 Performance Review of MLA and the Donor Company with respect to MLA's compliance with its obligations under its Statutory Funding Agreement with the Commonwealth that *"MLA is also a company which operates in a complex environment and under the framework of an outdated industry agreement. The current red meat industry MOU is nearing two decades old and is a reflection of industry needs at that time. Stakeholders consulted for this review have identified a lack of underlying clarity in the MOU which drives industry behaviour and often unfair criticism of the organisation. The most telling example of this criticism came during the ban on live exports (during 2011) when MLA became the spokesman for industry and potentially extended its remit (which is unclear under the MOU) beyond an industry services body into the realm of an industry spokesman. While ACIL Allen agrees with this reading of the MOU (i.e. it does not clearly articulate who is responsible for what under the agreement), there is limited evidence to suggest that MLA has not met its performance/accountability obligations under the MOU and acted as a professional services body for the industry since 2010'.*

## CPA Recommendation 2

- a) **That a dual grass-fed cattle producer organisational structure is established for all Peak Industry Councils with a separate member funded advocacy body and a grass-fed transaction levy funded research and development company similar to the meat processor and live exporter organisational structures.**
- b) **That the rights and responsibilities of the Peak Industry Councils are strengthened in the red meat MOU to give the Peak Industry Councils oversight of how their sector's levies are invested**

## 7. Red Meat Advisory Council (RMAC)

### 7.1 Divergent interests among the Peak Industry Councils

RMAC was established under the Australian *Meat and Livestock Industry Act 1997* and pursuant to a memorandum of understanding signed in 1998 between certain Peak Industry Councils.

The Report of the Senate Inquiry into the effect of market consolidation of the Red Meat Sector stated in Chapter 5, paragraph 5.12 that:

*5.12 While the role of the PICs on RMAC requires that they represent the interests of the industry more generally, in their daily capacity as Peak Industry Councils, they represent the views and interests of their members. However, the RMAC board represents a diverse range of interests – beef, sheepmeat and goat meat production sectors, exporters, feedlotters, retailers, wholesalers as well as livestock and boxed meat exporters – making it almost inevitable that these interests will collide. Questions have repeatedly been raised as to whether RMAC is capable of providing effective representation; particularly in relation to issues where an industry-wide consensus is not possible.*

RMAC's membership is made up of Peak Industry Councils representing industry sectors whose commercial interests are often diametrically opposed. Each of the industry sectors represented on RMAC have the same voting rights irrespective of the levy contributions from their sector. At best RMAC arrives at watered down "consensus" decisions and at worst it is unable to reach agreement at all.

RMAC was an impractical attempt to set up a one stop shop advisory body for government. The structure of RMAC makes it virtually impossible for it to fulfil its one stop shop advisory role.

A cross sectoral advisory body is singularly ill equipped to advise Government on individual sector issues, yet RMAC has received millions of dollars from the interest earned on the reserve fund which it administers.

Under the MOU, RMAC has a responsibility to represent the view of the Peak Industry Councils. The Peak Industry Councils represented on RMAC are required to consult with, and represent, the views of organisations, companies and individuals outside their own membership. In other words, the Peak Industry Councils' role on RMAC requires they represent the interests of the industry generally, whereas in their ordinary capacity as Peak Industry Councils they represent the specific views of their members.

Sectoral representatives on RMAC are bound by their organisations' policies and interests and it is unrealistic to assume that these representatives will set aside their organisation's interest when voting on RMAC resolutions.

Further, it is inadvisable that representatives from diverse agricultural and political organisations, representing a multitude of interest groups should each deliberate on issues where those interest groups have competing interests.

RMAC is often required to resolve contentious issues involving the legitimate and competing vested interests of its members. A perfect example of this was the support by AMIC of Government's 2011 ban of live cattle exports to Indonesia. RMAC was also unable to come to an agreed position because of competing single sectoral interests with respect to the allocation of EU and US beef quotas.

An advisory structure such as RMAC is at best able to arrive at a consensus compromise position for the whole livestock/red meat industry rather than a best outcome for the beef industry. Where an industry-wide compromise is not possible RMAC is fundamentally incapable of representing the interests of its diverse membership. Consequently, there is a strong argument that RMAC be restructured so that it can

effectively and constructively deliver achievable outcomes for the red meat industry sector on issues agreed upon by all sectors.

The [2002 Senate Committee Inquiry](#) Report on the Meat Industry Consultative Structure found that the existing RMAC structure inhibits its capacity to effectively represent the whole of industry. It recommended RMAC's reform or the establishment of an alternative industry advisory structure. Subsequent Senate inquiries supported these findings as does CPA.

## 7.2 RMAC Reserve Fund

The Peak Industry Councils and RMAC have received millions of dollars from the interest earned on the Reserve Fund administered by RMAC which was established from red meat industry levy reserves held by the pre 1998 red meat industry organisational structures Australian Meat and Livestock Corporation (AMLC) and the Meat Research Corporation (MRC).

There is a strong argument that if RMAC was restructured as a multi sector needs-based common interest consultative and advocacy body, the Reserve Fund should be distributed to the Red Meat sector representative structures in proportion to each sector's respective levels of levy contribution to AMLC and MRC in the years preceding the winding up of those statutory companies.

### **CPA Recommendation 3**

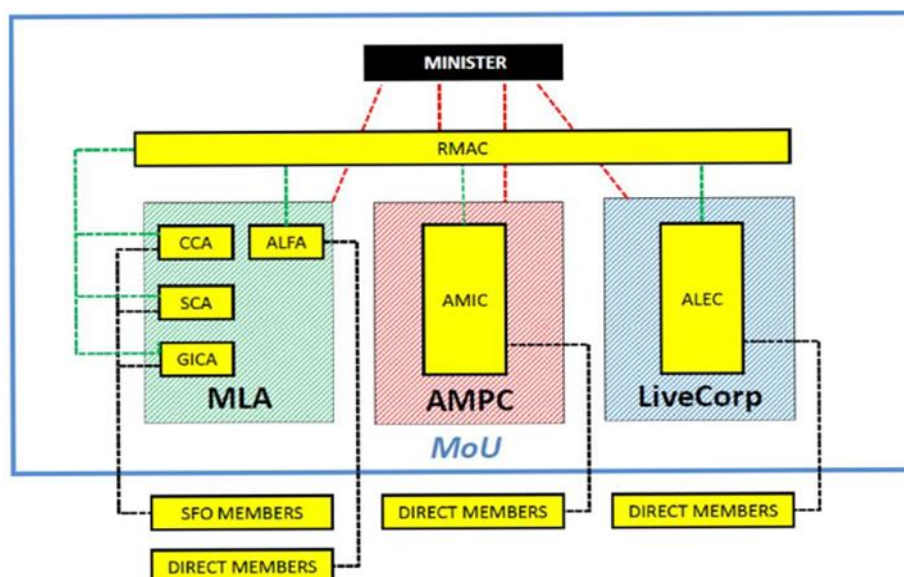
- (a) That RMAC is restructured as a needs-based common interest consultative and advocacy body representing all sectors of the industry represented on the RMAC Board.**
- (b) That the RMAC Reserve Fund be distributed to the red meat Peak Industry Councils in proportion to each red meat sector's respective level of levy contribution to AMLC and MRC prior to the cessation of operation of these companies.**



## 8. Comparison Between Current and Proposed Red Meat Organisational Structures

### Diagram 2 – The Australian Red Meat Industry Memorandum of Understanding Arrangements

Source – Current system - Submission 28 from Department of Agriculture: Industry Structures and Systems Governing Levies on Grass-Fed Cattle 19.2.14



*Structure Diagram  
as designed by  
the Commonwealth  
Department of  
Agriculture*

#### CURRENT STRUCTURE AND LEVY OVERSIGHT ANOMALIES

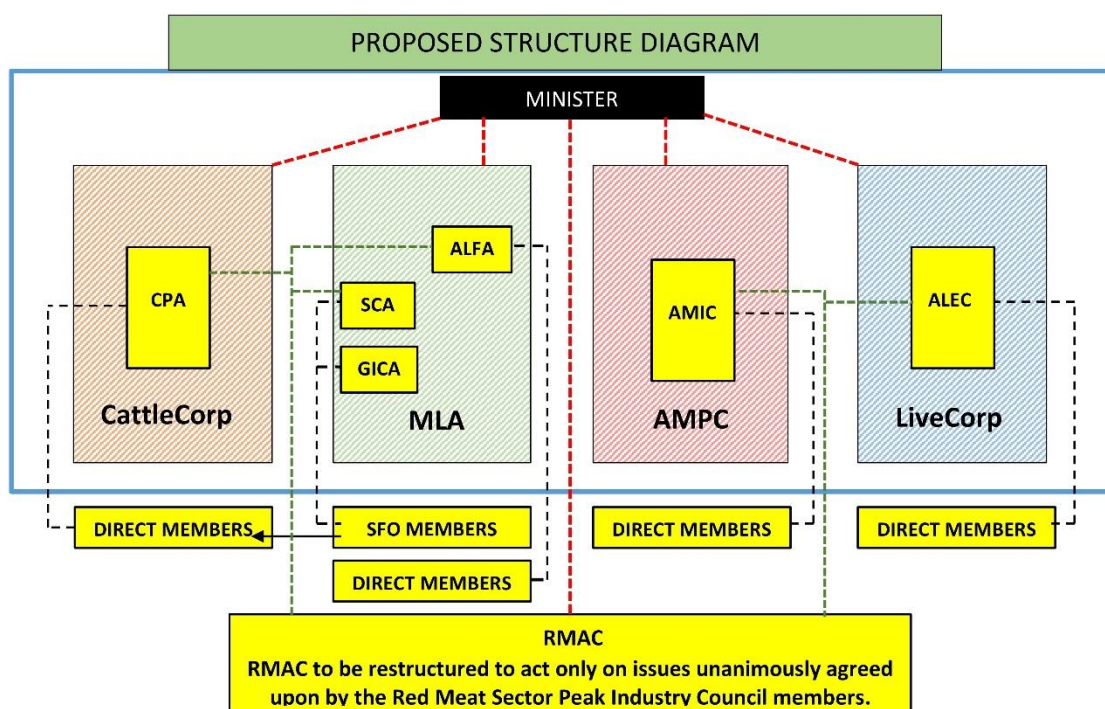
- Levy-paying members of ALFA, AMIC and ALEC are directly linked to their peak bodies.
- Levy-paying cattle producers have no direct membership link to their peak bodies.
- AMIC and ALEC are supported in their oversight of the expenditure of processor and live exporter levies by separate levy funded corporations whilst CCA and SCA (SPA) are not.

Despite the designation of policy/advocacy in yellow with respect to Peak Industry Councils and RMAC in the Department of Agriculture's Diagram 2 above, under the terms of the MOU, it is only policy advice to the Minister that is the preserve of the Peak Industry Councils and RMAC.

Goals for the vision and strategic imperatives for the industry sectors that CCA, Sheep Producers Australia (SPA), Australian Lot Feeders' Association (ALFA) and Goat Industry Council of Australia (GICA) representatives are required under the terms of the MOU, are to be developed jointly by each of those Peak Industry Councils with MLA.

Goals for achieving the vision and strategic imperatives for the meat processing sector of the industry are to be developed jointly by Australian Meat Processor Corporation (AMPC) and Australian Meat Industry Council (AMIC) and where services are provided by MLA, jointly between AMPC, AMIC and MLA.

Similarly, goals for achieving the vision and strategic imperatives for the live export industry are to be developed jointly by Live Corp and ALEC (Australian Live Exporters' Council) and where services are provided by MLA, jointly between LiveCorp, ALEC and MLA.

**Diagram 3 - Proposed Red Meat Organisational Structure****Note:**

- (a) That the Cattle Council of Australia has been removed but that State Farm Organisations can be expected to maintain influence by having their cattle producer members elected to the Cattle Producers Australia Board as part of a corrected democratic process now offered for all cattle producer levy-payers.
- (b) That CPA would have a levy oversight role matching that of AMIC and ALEC while CattleCorp would have a role that matches AMPC and LiveCorp.

If the proposed body (CattleCorp) controlled by grass-fed cattle producers, was to receive all the grass-fed cattle transaction levies, MLA's role can be preserved by amending the MOU to require CattleCorp to contribute to the MLA that proportion of the total of the grass-fed cattle transaction levy necessary to fund *core functions* and *joint functions* set out in the MOU. This would be consistent with the way that the AMPC and LiveCorp are required to contribute levy funds that they receive for red meat industry *core functions* and *joint functions*.

A properly constituted CPA, CattleCorp structure, directly representing grass-fed cattle levy payers, would be well positioned to monitor and control the utilisation of these levies. An amended MOU should reflect this enhanced Peak Industry Council responsibility for the control of levy expenditure.

## 9. Market and Price Transparency

As noted in both Senate Inquiries and the ACCC Cattle and Beef Market study, industry market and price transparency is of vital importance. Price Transparency can be defined as public availability of the actual price of cattle and products throughout the supply chain.

The absence of price transparency in a free market economy sector is generally seen as a barrier to entry into the industry, if limited information is available it is impossible for an investor to enter the market with a solid understanding of the past, current and future trends in the market and foresee a progressive and positive future.

In response to Recommendation 7 of the Industry Structures and Systems Governing levies on Grass-fed Cattle, relating to price transparency, the CCA directed MLA to commission a study into the impact of improved price transparency. This report was undertaken through several Milestone reports under the heading of 'Assessment of price transparency in the beef supply chain'.

The milestone reports (2, 3 & 4) examined in depth existing price transparency systems around the world and comparatively analysed the range of segments in the beef supply chain and benefits of improved price transparency in these countries. The result showed price transparency to be resoundingly beneficial in many internal aspects of the industry and further extended to external aspects in relation to consumer and producer benefit.

The reports identified an extensive range of benefits that increased price disclosure would generate for the whole industry, from efficiencies in matching producers with customer requirements such as processor target specifications, to allowing investors to confidently assess the merits and risks of potential investments. This would achieve improved knowledge and understanding along the whole supply chain.

Price Transparency is a fundamental component of a free market economy.

#### **CPA Recommendation 4**

- 4. That a joint industry and Australian Government task force be established to Implement the findings of the two Senate Inquiries and the ACCC Cattle and Beef Market Study.**

**10. Cattle Producers Australia's Recommendations to the Red Meat Industry MOU Review**

- 1. That the Australian Government provide immediate support, including appropriate financial assistance, to install a properly representative, directly elected and accountable grass-fed cattle transaction levy payer's advocacy body to replace CCA as Australia's grass-fed cattle producer cattle Peak Council.**
- 2. (a) That a two-company organisational structure is established for all Peak Councils with a separate member funded advocacy body and a grass-fed transaction levy funded Research and Development company similar to the current meat processor and live exporter organisational structures;**  
  
**(b) That the rights and responsibilities of the Peak Councils in the Red Meat MOU are strengthened to give the Peak Councils greater oversight on how their sectors levies are invested.**
- 3. (a) That RMAC Is restructured as a needs-based sector common interest consultative and advocacy body;**  
  
**(b) That the RMAC Reserve Fund is distributed to the red meat industry Peak Councils in proportion to each red meat sectors respective levels of levy contribution to AMLC and MRC in the 1990's.**
- 4. That a joint industry and Australian Government task force be established to Implement the findings of the two Senate Inquiries and the ACCC Cattle and Beef Market Study.**

## **APPENDICES**

### **APPENDIX 1**

#### **Red Meat MOU Review: - Terms of Reference**

##### **Objectives**

A green paper approach is being taken to the Red Meat MOU that is wide ranging, consultative and independent and aims to establish:

- How can a Red Meat MOU create real value for the intended beneficiaries of the MOU – Australia's red meat and livestock businesses?
- What should it look like in order to position the industry for sustainability, prosperity and position for future challenges and opportunities?

##### **Scope**

- Review the effectiveness of the current Red Meat MOU arrangements
- Undertake comprehensive consultation with signatories, key industry and community stakeholders and government
- Provide feedback to key stakeholders on their views and validate key recommendations for reform that ensures the sustainability and prosperity of Australian red meat & livestock businesses
- Report to the Red Meat Advisory Council (RMAC) by March of 2018 on a series of recommendations to improve the operations of the Red Meat MOU

##### **Guiding Principles**

In undertaking a green paper for the Red Meat MOU, the Task Force should aspire to deliver recommendations to RMAC that are –

- Ambitious
- Agile
- Dynamic
- Accountable
- Positions our industry for sustainability and prosperity

##### **Roles & Tasks / Responsibilities**

A Chair and lead reviewer, supported by an independent Task Force will identify robust reform to a Red Meat MOU that ensure the sustainability and prosperity of the Australian red meat and livestock sector. To do this, the Task Force will consider the operation of the Red Meat MOU, the role of industry and government signatories and ongoing risks and opportunities to the industry; and make recommendations for key reforms to:

- The need for a Red Meat MOU and its role in leading and advancing the value, reputation and sustainability of Australian red meat businesses.
  - Examine whether the purpose, and the principles as set out in the MOU, are being met.
- The roles, responsibilities and interrelationships of MOU signatories including RMAC, Peak Industry Councils and Industry Companies, including:
  - Whether the MOU arrangements provide an adequate framework to support RMAC, the individual sectoral groups and the red meat research and development corporations to work collectively to meet the needs of the red meat industry and the public.
- Whether RMAC is equipped to meet the leadership expectations and needs of industry.
- Quantifying the current costs and benefits of the Red Meat MOU to all signatories and the red meat and livestock sector with a view to identifying efficiencies in future iterations of the Red Meat.

- All other aspects of MOU relationships including:
  - Funding, research and development, intellectual property and issues.
  - The role of Aus-Meat & Safe-Meat.
- How all aspects of the Red Meat MOU can be improved or responded to ensure an industry capable of withstanding future challenges and opportunities for the Australia red meat and livestock industry.
- Make recommendations on means to support and improve industry's governance, collaboration and roles and responsibilities to meet future challenges.

## **APPENDIX 2**

### **CPA establishment - background, facts and journey**

#### **2.1 Introduction**

Cattle Producers Australia Limited was incorporated in accord with the model agreed upon by the various cattle industry groups including Cattle Council of Australia (CCA). Legitimacy for the establishment of Cattle Producers Australia is firmly rooted in the recommendations of the 2014 and 2017 industry Senate Inquiries and the ACCC Cattle and Beef Market Study, released in March 2017, with a further Update report released in May 2018.

#### **2.2 Background**

The Red Meat Advisory Council (RMAC) is the overarching multi sector representative body and provides consensus red meat industry advice to the Federal Government and manages a Reserve Fund established from unspent industry levies paid to AMLC and MRC before those companies were wound up.

In 2004 a major beef producer rally at Roma in central Queensland attended by 1500 cattle producers called for the reform of the current red meat organisational structures and in 2010 another 1200 cattle producers attended a similar rally in Armidale in NSW that was addressed by a number of Federal politicians including then Senator Barnaby Joyce and then Senator Bill Heffernan was a member of the Senate Rural and regional Affairs and Transport Committee also called for an overhaul review and reform of the current red meat organisational structures. The Armidale Beef Producer Forum was followed by a subsequent Beef Producer forum attended by over 500 major Northern Territory and Queensland cattle producers at Paradise Lagoons Rockhampton in August 2010 that was again addressed by a number of Federal and State politicians including then Senator Barnaby Joyce and that Paradise Lagoons Beef Producer again passed a motion with overwhelming support for an urgent reform of the current red meat organisational structures.

Subsequently, the cash strapped CCA embarked upon a two year reform process in 2012.

Click on the link to an [ABC radio interview with the then CCA president Howard Smith on 17 February 2015](#) explaining the need for the establishment of Cattle producers Australia.

#### **2.3 Senate Inquiry into the Industry Structures and Systems Governing Levies on Grass-Fed Cattle and Inovact Report**

In 2013 when Barnaby Joyce moved from the Federal Senate to the Federal House of Representatives and was appointed as the Federal Minister for Agriculture, he contacted the Rural and Regional Affairs and Transport Committee and asked them to hold an [Inquiry into grass fed cattle levy funded structures and systems in 2013](#). This inquiry held well attended hearings all over Australia and received a total of 407 individual and pro-forma submissions and in late 2014 handed down a Report setting out the [7 Recommendations](#).

The findings and recommendations of that Senate Inquiry was handed down in September 2014 and Recommendation 1 suggested the establishment of a new representative body funded from grass-fed transaction levies to replace CCA as the grass-fed cattle producers Peak Council.

#### **Senate Enquiry Recommendation 1**

***The committee recommends that a producer-owned body be established by legislation. The body should have the authority to receive and disperse the research and development, as well as marketing component, of the cattle transaction levy funds. The producer-owned body should also be authorised to receive matching government research and development funds. Reforming the Cattle Council of Australia to achieve these outcomes should be examined as part of this process.***



## 2.4 Establishment of the Implementation Committee

In December 2014 Minister Barnaby Joyce convened a meeting of red meat industry stakeholders in Brisbane. Following that meeting a body that later became known as the Implementation Committee was formed from the disparate cattle producer representative organisations, which included the CCA, the Australian Beef Association (ABA), the Australian Meat Producers Group (AMPG), the Northern Pastoral Group (NPG) and the Concerned Cattle Producers (CCP). At the Minister's behest the Implementation Committee was charged with the responsibility of reaching a unified agreement on the structure of a truly representative grass-fed cattle producer body to replace CCA as the grass-fed cattle producer Peak Council. In February 2015, agreement on the form of a new structure was reached by the Implementation Committee. CCA representatives, accompanied by other representatives of the Implementation Committee, presented to Minister Joyce the proposed new model that would replace CCA as the grass-fed cattle Peak Council. Minister Joyce instructed the Implementation Committee to proceed with the establishment of the new representative structure – referred to then as “Newco”, later changed to Cattle Australia, and finally registered as Cattle Producers Australia.

## 2.5 Agriculture Minister Joyce's Beef Central Opinion Piece

In July 2015 Minister Joyce issued an Opinion Piece in Beef Central noting the strong desire from all sectors of the grass-fed cattle producer industry to see the creation of a directly elected representative organisation to replace CCA as the grass-fed cattle producer Peak Council. The Minister explained that the board would be elected by grass-fed cattle levy payers from a number of regional electorates across Australia and that the government would ensure that the new organisation had greater oversight on how the cattle levy was invested by seeking an update of the MoU. Minister Joyce also advised ultimate responsibility for any redirection of levies, lay with levy payers and was of the understanding that there would be a proposal put forward to *redirect a portion or otherwise, of the transaction levy to a new representative organisation in accordance with the levy principles and guidelines*. Minister Joyce stated that he is committed to assisting where possible if such a vote achieved convincing support.

## 2.6 Senate Inquiry into the effect of Market Consolidation on the red Meat Processing Sector

In March 2015, a Senate inquiry, triggered by producer outrage over the alleged buyer boycott at Barnawartha, was announced. The Senate Inquiry report into [the effect of market consolidation \(September 2017\)](#) supported the findings of the 2014 Senate inquiry in relation to deficiencies in cattle industry representation by existing peak bodies, this was highlighted in Chapter 5 of the report (see Appendix A). The Senate Inquiry found that a contributing factor to the alleged abuse of market power by processors was a lack of the countervailing power of a strong financially sound cattle producer representative body. The report recommended the creation of a truly representative financially strong grass-fed cattle body to replace the CCA as the grass-fed cattle producer Peak Council.

### **Senate Inquiry Recommendation 4**

***The committee recommends that the Australian Government provide immediate support, including appropriate financial assistance, to the grass-fed cattle sector in its efforts to replace Cattle Council of Australia with a transparent and accountable producer-owned body as the sector's Peak Industry Council.***

### **Senate Inquiry Recommendation 5**

***The committee recommends that the Australian Government officially recognise Cattle Australia as the grass-fed cattle sector's Peak Industry Council under the Australian Meat and Live-Stock Industry Act 1997 and Red Meat Memorandum of Understanding once it is operational and has a membership structure in place.***



## 2.7 ACCC Cattle and Beef Market Study – Update Report

The Cattle and Beef Market Study – [Update report \(May 2018\)](#) reviewed the progress toward implementing the recommendations in the twelve months since the release of the Market Study. The report demonstrated that industry representatives have not acted on the recommendations and that progress has been very poor. The ACCC in its media release pointed out that the inaction of industry participants demonstrated that they either did not understand the value of transparency or it did not suit their interests to make improvements. The report identified that 90% of cattle are sold through direct purchases from farmers and are not reported on, which the ACCC see as a serious risk to the efficiency of the industry.

## 2.8 Leadership in Agricultural Industries Fund Grant

In May 2017, CCA lodged a grant application to the Leadership in Agricultural Industries Fund on behalf of the Implementation Committee, seeking a grant of \$500,000 to assist with the establishment of the proposed new grass-fed cattle producer Peak Council to replace CCA. In October 2017 Minister Joyce advised CCA that funding of \$500,000 had been approved in a two-step process. The first to provide up to \$206,000 for activities leading to the establishment of the new organisation with the second, to provide up to \$294,000 in funding for leadership capacity building activities once the entity is established.

## 2.9 CCA Resignation from the Implementation Committee

In January 2018, the CCA members of the Implementation Committee advised that they had been instructed to resign from the Committee by the SFOs, due to concerns about a sustainable funding arrangement for the proposed new entity and a lack of support from SFOs who were not prepared to forego their representation on the board of the new Peak Industry Council. At the termination of their participation in the Implementation Committee reform process, CCA representatives undertook to negotiate with the Implementation Committee members, on the matter of the \$500,000 grant and to agree upon a mutually suitable time to discuss arrangements regarding these funds with the Department of Agriculture. Despite a number of Implementation Committee requests to CCA and the Department, these negotiations never took place.

A link to the [ABC Interview of then CCA president Howard Smith AGFORCE President Grant Maudsley and Cattle producers Australia Implementation Committee member Norman Hunt.](#)

## 2.10 Incorporation of Cattle Producers Australia Limited

Following the resignation of the CCA members, the Implementation Committee proceeded to form Cattle Producers Australia Ltd (ACN 623 967 948), as the future representative body for Australia's grass-fed cattle industry in January 2018. In late February 2018, members of the Implementation Committee met in a facilitated workshop in Brisbane to work on the draft constitution for Cattle Producers Australia Ltd, based upon the 15-region and direct grass-fed cattle producer elected board model presented to Minister Joyce, by the various cattle producer bodies that formed the Implementation Committee back in February 2015.

## 2.11 New Structure offers producers a new opportunity and a new voice

Cattle Producers Australia is structured in a way to best represent the interests of all grass-fed cattle levy payers and to promote the profitability of the grass-fed cattle industry nationally. 15 Policy Advisory Councillors will be democratically elected from 15 regions across Australia. A 7-member Board will be elected by the CPA members from the 15 Policy Advisory Councillors and that Board may appoint 2 special qualification directors.

## APPENDIX 3

### History of the Current Grass-Fed Cattle Levy Funded Industry Structures and Systems

A short review of the red meat industry levy funded structures and systems that preceded the current industry structures discloses a history of reform and restructure as economic and world and domestic market conditions changed over the decades.

#### 3.1. The Australian Meat Board 1936

Statutory Boards in the Australian meat industry financed by meat levies originated in 1936. The original Australian Meat Board (AMB) was set up in response to adverse market conditions caused by the depression to administer export quota arrangements in an Australian export market dominated by the United Kingdom. The Board was empowered to issue export licences, regulate shipments of meat, and promote overseas sales by advertising, as well as fostering meat research.

#### 3.2. The Meat Agreement 1951

Initially export trade in Australian meat was confined mainly to shipments to the United Kingdom under the terms of the Meat Agreement, with the guaranteed minimum prices on beef, mutton and lamb in return for an assurance that all exportable surpluses would be provided to the UK market. The provisions of the UK Meat Agreement were gradually relaxed and by 1963 some 81% of Australian beef exports and more than 50% of mutton exports were shipped to the USA.

#### 3.3. The Meat Industry Act 1964

As market diversification progressed, the roles and structure of the levy funded Meat Board changed and the Meat Industry Act 1964 reconstituted the AMB and widened its powers to include authority to purchase and sell meat for market development in “special “market circumstances.

The Australian meat industry underwent several further changes from 1964 to 1977, by which time, Australia had become the largest single meat exporter in the world. This expanded the export portion of Australian meat production from one third to almost a half. These changes made the industry susceptible to even small changes in overseas demand. During this period there was a great emphasis on government involvement in the world meat trade particularly in Eastern Europe, Japan and the Middle East, and a greater incidence of import restrictions particularly from the US, Japan, Canada and Western Europe.

#### 3.4. The Australian Meat & Livestock Corporation Act 1977

In 1977 the government introduced the *Australia Meat & Livestock Corporation Act* and the AMB was reconstituted as the AMLC, a statutory Corporation with additional powers, which included:

- the introduction of the Livestock Export Charge to collect revenue from live exports;
- the power to issue directions to exporters with respect to
  - classes and grades of meat and livestock;
  - destinations;
  - quantities; and
  - terms and conditions for sale.
- the power to develop and operate export control plans and then control the carriage of meat and livestock and conditions relating to the contract for the shipment of meat and livestock,
- retention of the AMB power to purchase meat and livestock and export it themselves.

The AMLC was advised by two groups representing the different parts of the supply chain: The Producer Consultative Group and the Exporter and Abattoir Consultative Group.

Research and development was carried out through the Australian Meat Research Council (AMRC) which is a statutory corporation set up under the *Meat Research Act 1960* which provided for the chairman of the AMLC to be a member of the AMRC and was generally controlled and directed by the AMLC

### 3.5. The AMLC Reforms of 1984

The next major reform of the statutory authority structure occurred in 1984 following the cattle price crash of the 1970s. The government introduced measures designed to improve the commercial focus of the statutory meat organisations, to broaden the membership and expertise base of the statutory boards, and to improve accountability. These measures included the introduction of a selection committee to advise on board membership and required the development of corporate/operational plans together with annual reports and stakeholder involvement in AGMs.

### 3.6. Meat Research Corporation 1985

The MRC was formed in July 1985 to replace the AMRC as a result of an industry backed Commonwealth government decision to restructure the existing AMLC and the AMRC in order to manage R&D for the meat and livestock industry through a levy funded Corporation with dollar for dollar matching funds by the government. This represented a new direction for research administration and funding with a greater emphasis on commercial partnerships, coordination, planning dissemination and adoption of research results. Similar provisions were applied to board selection and industry/parliamentary accountability such as those in AMLC and other statutory corporations.

### 3.7. The Meat & Livestock Industry Act 1995

Following the 1994 Industry Commission Inquiry into meat processing the *Meat & Livestock Industry Act 1995* was passed by Federal Parliament with the intent of phasing government out and replacing the statutory corporations through a staged approach of transferring greater responsibility for industry decision making to the industry itself, and eventually moving to a non-statutory environment. The 1995 legislation set up the Meat Industry Council (MIC) as an advisory body to AMLC and AMRC and provided a sunset to the statutory structures at 30 June 1998, and required the commencement, no later than 1 July 1997, of a review by government and industry of the arrangements.

## **APPENDIX 4**

### **Steering Committee and Task Force Implementation Issues**

#### **4.1. Australian Meat and Livestock Reform for the Future Steering Committee and Task Force 1996**

At the Meat Industry Council (MIC) conference on 1 May 1996, then Federal Agricultural Minister John Anderson announced that he was establishing a joint government/industry reform process for Australia's meat and livestock industry structures and on 27 May 1996, announced the terms of reference for a task force to recommend improved structures.

The terms of reference for the Task Force required the Steering Committee to examine and report on:

- (a) options and recommendations for meat and livestock industry organisations to deliver collectively funded industry programs more effectively.
- (b) the costs and delivery efficiency of the services provided by MLC, MRC and MIC to provide a cost baseline for the longer-term industry organisational structures.
- (c) recommendations for key government, or joint industry/government, policy and programme actions, including those that extended beyond the functions of industry organisations to facilitate a more internationally competitive red meat industry in Australia.

#### **4.2 The Task Force Report October 1996**

The 1996 Task Force Steering Committee noted how the red meat industry levy funded structures had evolved over the decades and that each stage in the process of evolution had been preceded by a review. Each review had been in response to changing market, industry and policy circumstances which tended to demonstrate that non-profit statutory structures with multiple stakeholders do not adapt on their own accord.

The Steering Committee noted that statutory boards and managers are constrained by a combination of legislative imperatives and stakeholder priorities, many of which can be unrelated to pure commercial objectives. Conflicting requirements can lead to less efficient decision-making and reduce performance, which provides a limit to the full commercial focus demanded by stakeholders. The Steering Committee also found that the development of meat and livestock statutory authorities was one of a gradual shift towards a more deregulated commercial orientation by successive authorities which reflected broader policy trends in Australia and changing market requirements. The Steering Committee noted that, by their nature, each stage to reform tended to be reactive and that in the absence of free market operations the current challenge was to develop the most flexible and responsive levy base structure to meet industry and market circumstances.

The Steering Committee concluded that change is not a one-off event, but a constant part of the market and policy environment and that adapting to change was essential for success.

#### **4.3. Representative and Involved Ownership**

The 1996 Australian Meat and Livestock Taskforce criticised the absence of accountability to stakeholders in the previous structures and commented upon the need for the levy payers to feel that they had ownership of the service provided. Effective accountability of levy payer ownership structures are particularly important for corporations such as MLA, whose levies are exacted compulsorily, and which do not have:

- requirements to produce profit and loss accounts and balance sheets as the main basis for performance monitoring;
- market accountability through the buying and selling of shares in the company.

The Task Force Report pointed to the growing sense of distance and lack of involvement by stakeholders and emphasised that “representation and involved ownership is necessary to achieve the essential participation of the industry itself.”

The report recommended:

- greater industry participation in board appointments;
- improved reporting to the AGM, including an annual performance audit;
- an enhanced role for registered levy-paying members; and
- improved evaluation and performance reporting procedures.

#### 4.4 Steering Committee and Task Force Implementation Issues

Many of the recommendations of the Steering Committee and Task Force established to advise on the 1997/98 industry restructure were ignored or inefficiently implemented, including recommendations for voting and Board selection, and separate specie and producer/processor corporations.

##### Ownership and Accountability

- The 1996 Steering Committee recommended that the proposed new organisations needed to be accountable to ensure that the levy payers felt that they had ownership of its operations.
- To this end the 1996 Steering Committee and Task Force recommended that:
  - Peak Councils hold 50% of the voting rights (class A members) and levy payers who opted to take up membership in the MLA (class B members) hold the remaining 50% of the voting rights, with all votes being on a one man one vote basis rather than by the amount of levies paid.
  - the Board selection committee should constitute nominees from Peak Councils with the right for any twenty class B registered levy payer members of the company to nominate Board membership candidates to the selection committee.
  - important decisions such as increases or decreases in levies to be passed by a majority of those entitled to vote on a one man one vote basis at the AGM, with director/board and specific program confirmations being allowed from registered levy paying class B members;
- A national agreement between Commonwealth and the States to coordinate regulatory policy to be implemented by the existing regulatory agencies supported by a small departmental Secretariat.

#### 4.5 Industry Organisational Restructure Implementation Outcomes-1998

As the 1996 Steering Committee noted *“The culture of an organisation is inevitably influenced by its ownership and accountability arrangements.”*

- During the implementation phase, the 1996 Steering Committee, voting and ownership recommendations were abandoned.
- The two-register direct voting and direct election system, without any intervening role by non-levy paying Peak Councils, has been adopted by the Australian Meat Processor Corporation (AMPC). The AMPC constitution allows for one register being on a ‘one man one vote’ basis, and

the other register based upon the dollar value of the levies paid. This provides an appropriate balance between basic democratic principles and the rights of those paying the most in levies.

- The two register AMPC direct voting system was not adopted in the MLA constitution. The current MLA voting allocation is tied to the amount of levies paid. The Board selection process vests the right to nominate candidates for election to the Board in a selection committee comprising an equal number of Peak Industry Council representatives, producers and representatives of the existing MLA Board.
- Consequently, the ownership and accountability principles recommended by the 1996 Steering Committee were lost and many cattle producers now feel disenfranchised from their own corporation. Less than 3 % of MLA members bothered to vote at MLA's 2017 AGM.
- The structure of many of the Peak Councils is still based upon the 1950's branch district, regional, state and national committees' configuration set out in Diagram 2. This structure leaves representatives of those Councils who interface with government, far removed from the rank and file, in sharp contrast to some of the emerging organisations, which use the internet and teleconferencing to create flatter and more inclusive arrangements.

#### 4.6. Product Specific Corporations

- The 1996 Steering Committee and Task Force recommended that two product specific separate beef and sheepmeat specie split statutory funded corporations be established. This recommendation was ignored;
- In 1996 there were over 170 million head of sheep in Australia and there are now only about 70 million head;
- There are many in the sheep and cattle industry who still believe that their interests would be better served through separate specie corporations. This is especially the case where there is significant and growing domestic and international competition between species for a share of the consumer dollar.

#### 4.7. Producer/Processor Split

The 1998 Red Meat Industry Restructure proceeded on the basis of separate producer (MLA) and processor (AMPC) corporations because it was considered that the interests of the processors and producers were often in conflict and the processors often did not support many of the collective levy funding activities proposed by the producers.

Consequently, it was decided that the processors would need to pay reduced slaughter contractual contributions rather than levies to the AMPC and that the AMPC would fund agreed joint functions on a "willing partnership" basis with the MLA. Similar arrangements were put in place for live exporters.

Those implementing the restructure did not, however, realise the full extent of integrated backgrounding and feed lot interests of processors, and the evolution of that integration over the following decade. The result has been very significant voting entitlements vesting in the hands of the larger meat processors. 18% of all MLA levies are now paid by abattoirs and at least half of the top MLA levy payers are abattoirs; JBS Swifts, Australia's and the world's largest meat processor, is MLA's largest levy payer. There are many processors and producers who believe that the question of split processor and producer corporations should be revisited.

Separation of processor and producer corporations could be facilitated by replacing the current transaction levy with a once only slaughter levy, with the slaughter levy being payable by the entity that owned the cattle (say) 14 days before slaughter. The slaughter levy with respect to all feed lot and background cattle (or sheep) owned by the processor of the cattle (or sheep), would be paid to the processor corporation (i.e. the AMPC) and the slaughter levy from stock owned by producers would be paid to a restructured producer owned MLA.

An article in the Northern Star by Peter Weeks five or six years ago claimed that the top fifty levy payers effectively control the vote at an MLA AGM.

#### 4.8. The Task Force Report Recommendations 1996

The October 1996 Task Force Steering Committee recommended that AMLC, MRC and MIC be abolished and be replaced by levy funded corporations limited by guarantee, and set out a number of alternative corporate structures including, amongst other options:

- separate sheep and beef levy funded marketing and R&D corporations, which included both producers and processors (the Steering Committee's preference) or
- a combined red meat levy funded marketing and R&D corporation, which included both producers and processors, or
- combined red meat levy funded producer marketing and R&D Corporation (the MLA), with separate processor (AMPC) and live export (Livestock Export Corporation) corporations funded by voluntary contributions.

The final option referred was eventually adopted. Meat and Livestock Australia (MLA), the Australia Meat Processor Corporation (AMPC) and Livestock Export Corporation (LiveCorp) were incorporated as companies limited by guarantee and joined together in the current red meat industry structure along with the various sector Peak Councils CCA, SCA, ALFA and National Meat Association and Australian Meat Council (now combined as Australian Meat Industry Council) under a Memorandum of Understanding (MOU) with the Commonwealth government in 1998. .

## APPENDIX 5

### Structural and Economic Changes in the Red Meat Industry Since 1998

The red meat industry and the Australian and global economy has changed significantly since the current organizational structures were put into place in the 1990s.

The executive summary of the RMAC submission 165 to the 2013-14 Senate inquiry into Industry Structures and Systems Governing Levies noted that: -

*“the physical, social and economic environment in which the industry operates has changed dramatically since these systems were initiated in the 1997/98 restructure. While the nature of these changes varies considerably between the sectors, the need for industry entities to adapt accordingly is a challenge common to all.”*

- The RMAC submission to that 2013-14 Senate Committee Inquiry noted that some (but by no means all) of the more notable changes since 1997/98 included: -
  - fewer and older farmers
  - dominance of multinational companies in meat processing
- the decline in the national sheep flock and an increase in lamb production
- ongoing declining terms of trade
- decline in voluntary memberships
- tackling logical improvements in information access and dissemination.

Some of these structural changes and a number of others are discussed below.

#### 5.1. Concentration of Abattoir Power

- in 1998 there were 215 abattoirs in Australia - currently the Australian Meat Processor Corporation which collects the slaughter levy has 178 levy payers (a number of companies do not aggregate levies), 105 members operating out of 130 establishments and represents more than 90% of processing capacity.
- in early 1996 the five largest processing companies in Australia processed 28% of the national cattle killed and the five largest sheep processors saw 38% of the national sheep kill;
- the five largest red meat processing companies in Australia now account for about 52% of the national sheep and cattle killed, despite the fact that the sheep kill has declined by almost 60% since the mid 1990's.
- note here that the ideal processing number is approximately 7,800,000 cattle a year. If more than that number is processed the slaughter margins are good. If less than that number is processed the margin collapses.
- The average margin over time for the processors is \$10 a head fluctuating between +\$350 to - \$400 a head.

#### 5.2 Concentration of Foreign Abattoir Ownership

- In 1996 the following abattoirs that are now wholly or partly owned by foreign companies were all Australian owned:



- *The Tasman Group who owned 3 abattoirs in Victoria and 3 abattoirs in Tasmania with a capacity to kill 600,000 cattle, 3 million small stock and 80,000 pigs annually were taken over by JBS Swifts;*
- *Teys who owned abattoirs at Beenleigh, Biloela and Rockhampton in Queensland and an abattoir at Naracoorte, South Australia merged with the US based Cargill;*
- *Greens WA,*
- *Kilcoy Qld,*
- *Primo NSW and*
- *Tabro SA*

*The major foreign owned works today are:*

- *JBS (brazil)*
- *Kilcoy (Chinese)*
- *Nippon (Japanese)*
- *Teys (joint venture USA)*
- *Bindaree (HK Chinese).*

Meat processing plants, because of the huge margin swings, are not attractive investments for foreign players.

The foreign owned abattoirs, however, have all the infrastructure and resources necessary to implement their own overseas marketing, with some of them principally acting as vertically integrated suppliers to their home countries.

### 5.3. Concentration of Supermarket Power

In the five year period between 1987 and 1992 the percentage of beef sold on the domestic market through supermarkets rose from 20% to 35%.

- According to the latest Nielsen Homescan survey published by Beef Central, Coles and Woolworths were then selling now selling about 57% of the beef eaten in Australia and IGA, Aldi and the other minor supermarkets another 21.6%, taking the supermarket share of Australia's domestic beef sales to about 78.6% or 2.24 times the supermarket share of Australian beef sales in the early 1990's.
- At present 75% of Red Meat Processed is sold overseas.
- Of that remaining 25%, Coles/Woolworths process 70%, Aldi/IGA about 15% and retail butchers the balance.

### 5.4. Decline in Australia's Sheep Population

The 1996 Task Force Report that was the precursor to the establishment of the current red meat structure included a recommendation for separate sheep and cattle levy funded corporations, but that option was not adopted in the final implementation of the 1990's restructure.

- In the 1990's Australia's sheep population was in excess of 170 million and as of 3 June 2012 Australia's sheep population had declined to 74.7 million (which is less than half of the 1990s sheep population or a decline of 56.5% rather than the 36% decline referred to in the RMAC submission to this inquiry).

- In 2017 Australia's sheep population was 70.1 million head.

#### 5.5. Increased Feed lot Capacity

- In 1998 cattle feed lot capacity in Australia was 885,000 head and by September 2013 Australia's feed lot capacity had reached 1,162,204.
- RMAC noted in submission 165 to the 2014 Senate Committee inquiry into industry structures and systems governing grass-fed cattle, that the number of grain-fed cattle on feed had increased by 81% since 1997/98,
- The October 2018 Regional feedlot investment study final report suggested that the current cattle feedlot capacity is in excess of 1,250,000.

#### 5.6. Separate Producer and Processor Levy Paying Corporations

- When the current red meat industry organisational structures were put into place in 1998 MLA was to be the producer corporation and the AMPC the processor corporation. However, 18 % of all MLA levies are now paid by abattoirs and at least half of the top 14 MLA levy payers are abattoirs. JBS, Australia's, and the world's largest meat processor, is MLA's largest levy payer.

#### 5.7. Fluctuations in the Value of the Australian Dollar

- In 1996 the value of the Australian dollar averaged 75 US cents before falling some 24.5 cents to 50.5 US cents in 2001; whilst from the beginning of 2011 until the middle of 2013 the value of the Australian dollar fluctuated between parity and \$1.10 US and is currently trading in band between 70 to 75 US cents.

#### 5.8. Fluctuating Cattle Prices

One of the drivers behind the 1990's red meat industry organisational structural reforms was the major (33%) decline in cattle prices that occurred between 1993/94 and 1996. The last major change to the Eastern Young Cattle Indicator (EYCI) data composition was the inclusion of feeder cattle in November 2004, consequently, only post 2004 EYCI figures can meaningfully be used for comparative purposes. The published EYCI figures are not adjusted for inflation.

- The EYCI averaged 376 cents throughout the whole of 2005;
- on 11 February 2013 the EYCI was 332, the average EYCI for the whole of 2013 was 316 cents;
- on 16 January 2014 the EYCI was 291, but
- by the middle of 2017 the EYCI had risen to over 700, and
- on 21 January 2019 Beef Central quoted the EYCI at 477.5.

The Australian Inflation Calculator converts:

- AU\$376 in 2005 is equivalent in purchasing power to AU\$510.09 in 2018, a difference of AU\$134.09 over 13 years.

An analysis by Ian Maclean and David Counsell of Bush AgriBusiness Pty Ltd published by Beef Central on 11 February of 2013 concluded that Queensland cattle prices had declined by 40% in real terms between 2001 and the beginning of 2013.

Although it should be noted that in answers on notice to the Senate Estimate Committee MLA claimed that the average weighted cattle prices increased by 12.8% between 1997/98 and 2012/2013.

#### 5.9. Blow Out in Levy Funded Corporation Budgets and Failure to Achieve Key Performance Benchmarks

In the 1990's one of key drivers of replacement of the previous corporations, AMLC and MRC, was the blow out in their combined annual budgets from \$14 million in the early 1980's to \$138 million, whilst during the same period:

- real cattle prices had declined by 20%; and
- Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) figures showed that domestic per capita beef consumption had declined at a rate of about 1.3% a year between 1979 and 1996;

Meat and Livestock Australia Ltd started with a budget of \$96 million, which has now blown out to \$271,000,000, and although prices have increased somewhat the numbers certainly have increased. Real cattle prices have continued to decline, falling by 32% between 2005 and 2013

- real cattle prices in Queensland fell by 40% between 2001 and the beginning of 2013;
- based on the Mclean and Counsel published figures, per capita domestic beef consumption fell at a rate of 1.49% a year for the first 15 years after MLA's inception (from 41.5kgs per person in 1997 to 32.2 kg per person in 2012); and
- by 2018 Australian per capita beef consumption has fallen to 26kg which represent a 37% fall or 1.86% fall per year.

## APPENDIX 6

New and Amended Levy Guidelines

## 2. GENERAL PRINCIPLES APPLYING TO PROPOSALS FOR NEW AND AMENDED PRIMARY INDUSTRY LEVIES AND CHARGES

The Government introduced 12 Levy Principles in January 1997. These Principles must be met when an industry or group of levy payers proposes a new levy or an amendment to an existing statutory levy.

The 12 Principles are outlined as follows:

1. The proposed levy must relate to a function for which there is a **market failure**.

2. A request for a levy must be supported by industry bodies representing, wherever possible, all existing and/or potential levy payers, the relevant levy beneficiaries and other interested parties.

The initiator shall demonstrate that all reasonable attempts have been made to inform all relevant parties of the proposal and that they have had the opportunity to comment on the proposed levy.

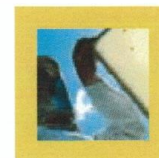
A levy may be initiated by the Government, in the public interest, in consultation with the industries involved.

3. The initiator of a levy proposal shall provide an assessment of the extent, the nature and source of any opposition to the levy, and shall provide an analysis of the opposing argument and reasons why the levy should be imposed despite the argument raised against the levy.

4. The initiator is responsible to provide, as follows:

- an estimate of the amount of levy to be raised to fulfil its proposed function
- a clear plan of how the levy will be utilised, including an assessment of how the plan will benefit the levy payers in an equitable manner
- demonstrated acceptance of the plan by levy payers in a manner consistent with Levy Principle 2.

5. The initiator must be able to demonstrate that there is agreement by a majority on the levy imposition/collection mechanism or that, despite objections, the proposed mechanism is equitable under the circumstances.



6. The levy imposition must be equitable between levy payers.
7. The imposition of the levy must be related to the inputs, outputs or units of value of production of the industry or some other equitable arrangements linked to the function causing the market failure.
8. The levy collection system must be efficient and practical. It must impose the lowest possible 'red tape' impact on business and must satisfy transparency and accountability requirements.
9. Unless new structures are proposed, the organisation/s that will manage expenditure of levy monies must be consulted prior to introduction of the levy.
10. The body managing expenditure of levy monies must be accountable to levy payers and to the Commonwealth.
11. After a specified time period, levies must be reviewed against these Principles in the manner determined by the Government and the industry when the levy was first imposed.

#### Amendments to existing levies

12. The proposed change must be supported by industry bodies or by levy payers or by the Government in the public interest. The initiator of the change must establish the case for change and where an increase is involved, must estimate the additional amount which would be raised. The initiator must indicate how the increase would be spent and must demonstrate the benefit of this expenditure for levy players.



### 3. NEW AND AMENDED LEVY GUIDELINES < < < < < <

#### 3.1 INTRODUCTION

Before submitting the proposal to Government, the industry organisation is required to consult all sectors of their industry and as many potential levy payers as possible, and must gain support for a new levy or charge.

The Levy Guidelines specify voting procedures and stipulate that the proposed collection system is efficient and keeps 'red tape' to a minimum.

In proposing a new levy or charge to the Government, an industry organisation must:

- show how it will benefit payers and the industry in general
- estimate the amount that it will raise
- provide a clear plan for use of the money
- recommend how the levy or charge is to be calculated—for example, by product weight or value, or individual head of stock.

An industry organisation must contact all actual or potential payers and gain their support for any amendment, other than one that is simply administrative, to an existing levy.

If a **levy increase** is proposed, the industry must estimate the extra amount that will be raised and tell levy payers and other interested parties how it will be spent to their benefit.

Changes must also be discussed with the organisation that will manage the levy expenditure, unless there is a proposal to form a new organisation for this purpose.

The Government can also impose, in the public interest, a new levy or charge on an industry and review it after a specified time.

The Government can initiate an amendment to the collection mechanism of any levy if it ceases to be efficient and practical.

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- E) Where no formalised industry voting arrangements exist, it is the Government's intention that the initiator should conduct a vote of the relevant actual or potential levy payers to demonstrate that a majority in the industry support the proposal. Other beneficiaries and interested parties should also be consulted and their support demonstrated.
- F) Exceptional circumstances exist where proponents can demonstrate that voting in this way would be prohibitively expensive.
- Where an initiator of a new levy or a change to an existing levy has clearly been able to satisfy Guideline A, but has been unable to conduct a vote under Guideline E, because it has not been cost-effective to do so, then they will need to demonstrate majority support by providing evidence that a thorough industry-wide consultation process has been followed and that industry is widely supportive of the proposal.
- G) For a levy proposal to be considered by Government, industry must show that there is **majority** support from actual and/or potential levy payers.
- At present the Government interprets 'demonstrated industry support' as support from those who choose to participate in a ballot and/or consultation process.
  - A majority is defined as follows:
    - 50% plus one of the voting allocations of those producers who choose to vote in a levy ballot
    - 50% plus one of producers who choose to vote in a one vote per producer ballot
    - 50% plus one of production of producers who vote in a production based ballot
    - 50% plus one of those who vote for all other types of voting.
- H) All levy proposals must provide a clear case proving net industry benefit and market failure.
- I) Formal objections will be accepted by the Minister, Parliamentary Secretary or Department within **six weeks** of the date of formal lodgement of the proposal, along with its supporting documentation.
- The objection should clearly outline the reasons why the levy is opposed and should include an analysis of the pro-levy argument. Most importantly, it should include documentary evidence that actual and/or potential levy payers oppose the implementation of the levy.
  - Objections having little basis in fact or which are considered irrelevant, frivolous or vexatious will not proceed.





### 3.2 PRINCIPLE GUIDELINES CHECKLIST

- A) The initiator of a new levy must be able to demonstrate it has met the first 11 Levy Principles.
- The principal criteria to be satisfied are:
    - market failure net industry benefit (that is, industry benefits must exceed the costs of raising and funding the levy), and
    - that the application of the levy is practical
  - The collection of the levy needs to be practical.
- B) For a new levy, or an amendment to an existing levy that will substantially change the level of the levy, direction of the activity that the levy funds or any other significant change that will directly affect levy payers, the initiator must take effective steps to inform all actual or potential levy payers of the proposal.
- C) Before a vote is taken at industry meetings or through a postal vote, the levy payers must be informed of the proposed levy's purpose and intended industry benefit through widespread promotion and consultation.
- The consultation process may include, but is not limited to, industry forums/ meetings, newsletters, advertising in the rural press (including industry journals and national papers) and use of electronic media and the internet. It should be tailored to meet the regional and demographic distribution of industry members.
  - The consultation period should last between three and six months.
  - Industry wide consultation is the responsibility of the industry body or levy initiator.
  - The Government must be satisfied that the levy proposal has been distributed for consideration by all potential levy payers and that they have had the opportunity to express their views. Industry bodies will be required to provide evidence of widespread consultation in their levy proposal.
- For further guidance on the recommended voting and ballot criteria, refer to Section 5: Supplementary Guidelines.*
- D) There will be some flexibility on how levy payers can vote to support or reject a new levy or a substantial change to a levy.
- For industries that have a statutory, corporate or industry organisational structure that prescribes voting rules and processes in its supporting regulations or constitution, the Government will accept majority support shown for the proposal using those prescribed voting rules, providing Guideline C has been met.



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- J) Decisions to instigate levies for the management of emergency animal and plant health issues, pest incursions and product safety will only be considered on economic grounds. There must be clear evidence that the sum of the net industry benefit and the public benefit is greater than the cost to industry and government.

If governments and industry have pre-determined strategies and cost-sharing arrangements for responding to emergencies, these arrangements should be used in preference to additional levy proposals for this purpose.

- K) As a general rule, where funding for research and development provides net industry benefit and meets the criterion of market failure, industry needs only to satisfy Guidelines B to F.
- L) Where industry support is provided to Government efforts in trade access negotiations, market failure will be considered on a case-by-case basis. Where evidence regarding net industry benefit and market failure is limited, Guideline G applies.
- M) Where there is failure to demonstrate a net industry benefit and market failure, statutory levies will not be supported.
- N) Statutory levies must not be used to fund agri-political activities.
- O) An industry body must consult with Government on a levy proposal prior to undertaking the consultation process to obtain advice on the proposal.

### 3.3 GOVERNMENT INTERVENTION

Where participation is considered necessary by Government to meet certification requirements for domestic and/or international trade, quality assurance or participation in a programme that is in the national interest because there is a significant risk to public plant and/or animal or public health and/or to trade, the Government may require an industry to implement statutory arrangements to recover the cost of the survey from industry.

### 3.4 GOVERNMENT ASSISTANCE

The LRS can provide advice on consultation processes to initiators of a new levy or a change to an existing levy and on meeting the Guidelines.

Promotion must be extensive and all actual or potential payers of a levy must be given an opportunity to express their views on the proposed levy before it is submitted to Government.

It is strongly recommended that all proposal processes be documented.

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### 3.5 LEVIES REVENUE SERVICE CONTACT DETAILS

Contact the Levies Revenue Service for advice on levy proposals

Phone: 1800 020 619

Fax: 02 6272 5695

Email: [levies.management@daff.gov.au](mailto:levies.management@daff.gov.au)

Write to: Manager—Legislation and Policy  
Levies Revenue Service  
Locked Bag 4488  
KINGSTON ACT 2604

For more information about the Levies Revenue Service visit [www.daff.gov.au/levies](http://www.daff.gov.au/levies)

