

OPTIONS TO STRUCTURE CATTLE AUSTRALIA

Background

RSC Friday10 June meeting in Brisbane

The in principle proposal at the face- to -face RSC Friday10 June meeting in Brisbane regarding the two options set out in the KWM Report to the Steering Committee on whether to form the new grass-fed cattle producer Peak Industry Council through a repurposed reconstituted CCA or to incorporate a new Cattle Australia entity to form Cattle Australia by amending the current Cattle Australia constitution was based on advice that the option of retaining the existing CCA entity and amending its constitution would be quicker and procedurally easier than creating a new entity for the establishment of the proposed new grass-fed cattle producer Peak Industry Council.

The evidence circulated by Jackie Poyser the independent RSC secretary during that face- to -face RSC Friday10 June meeting in Brisbane in support of that advice that the option of retaining the existing CCA entity and amending its constitution would be quicker and procedurally easier was the following email from DAWE:-

From: Maisey, Paul

- *If CCA was to be replaced by CA it would require a change to the AMLI regulations.*
- *It's not something the Minister for Agriculture can just approve.*
- *It is an Executive Council process.*
- *The Minister needs to support it being sent to the Governor General and for the instrument to be tabled in parliament.*
- *There's also a lot of other documents that would need to be updated to reflect the change in entity, for example but by no means limited to, 'government and industry cost sharing deed in respect of emergency animal disease responses', the red meat MoU et al.*

The face- to -face RSC Friday10 June meeting in Brisbane discussed a timeline for the transition from CCA to Cattle Australia as the grass-fed cattle producer Peak Industry Council based on CCA adopting an agreed amended Cattle Australia constitution in September 2022. Immediately call for nominations for the election of 7 Cattle Australia directors who would take over from the outgoing Cattle Australia directors on 22 November 2022

In the context of the in principle proposal to reconstitute CCA to form Cattle Australia at the face- to -face RSC Friday10 June meeting in Brisbane A proposal was also put forward by CCA and SFO members to wind up the RSC on 30 June 2022 and leave the finalization of the establishment of Cattle Australia to CCA and the SFO' s.

This CCA/SFO proposal to wind up RSC on 30 June 2022 was , however, not agreed to and it was decided that the RSC and CCA would enter into a Memorandum of Understanding (MoU) setting out agreed provisions of the new Cattle Australia constitution and an agreed transition process and that the RSC would continue in an oversight role until the new board took over control on 22 November 2022

Subsequent Advice from DAWE

Following a discussion between Paul Denny and Paul Maisey from DAWE and Norman Hunt on Wednesday 15 June 2022 Paul Denny forwarded Norman Hunt the email set out immediately below on Monday 20 June 2022 advising that the- *same legislative process will need to be followed to replace Cattle Council of Australia with Cattle Australia, regardless of whether that involves the formation of a new entity or reconstituting an existing entity.*

From: Denny, Paul <Paul.Denny@awe.gov.au>
Sent: Monday, 20 June 2022 5:58 PM
To: Norman Hunt <hp@huntpartners.com.au>
Cc: Maisey, Paul <Paul.Maisey@agriculture.gov.au>; McDonald, Michael <Michael.McDonald@agriculture.gov.au>
Subject: Grass Fed Cattle Reform - change to regulations [SEC=OFFICIAL]

Dear Norman,

Thank you for our phone conversation on 15 June. As requested, attached is a copy of the Australian Meat and Live-stock Industry Regulations 1998. These are the regulations that will need to be updated if Cattle Council of Australia were to cease being recognised as a prescribed industry body under the Australian Meat and Live-stock Industry Act 1997. The Minister does not have the authority to change the regulations himself. Because they are a legislative instrument, the Minister must table them in the parliament. To do this, the Minister recommends to Executive Council that the regulations are amended. If this recommendation is accepted by Executive Council, the regulations are then tabled in the Parliament of Australia as a disallowable instrument. If there are no objections raised in the Parliament at the end of the disallowance period, the regulations become a legislative instrument.

The same legislative process will need to be followed to replace Cattle Council of Australia with Cattle Australia, regardless of whether that involves the formation of a new entity or reconstituting an existing entity.

Many thanks

Paul Denny

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Department of Agriculture, Water and the Environment

Food and Supply Chain Branch | Agricultural Policy Division

Effect of Subsequent DAWE Advice on the Rationale for the Reconstituted CCA Proposal .

It now appears that the rationale for the 10 June 2022 in principle RSC proposal to proceed to establishing Cattle Australia by adopting the option of retaining the existing CCA entity and amending

its constitution on the basis that it would be quicker and procedurally easier than incorporating a new Cattle Australia entity was fundamentally without foundation.

It is now necessary for the RSC to reconsider the two alternative options of either forming the new grass-fed cattle producer Peak Industry Council through a reconstituted CCA or incorporating new Cattle Australia entity,

Transcript of the Relevant Portion of the RSC Constitutional Subcommittee 17 June 2022 Meeting

The attached transcript notes of the relevant portion of the RSC Constitutional Subcommittee meeting held on 17 June 2022 have been taken from a recording of that meeting furnished by Andrew Macaulay in accord with his undertaking during the meeting on 17 June 2022 to circulate some points with respect to the comments that he made during that meeting in support of the proposal for Cattle Australia to be formed through an evolutionary amendment of CCA's current constitution.

Sheep Producers Australia Limited Precedent.

As can be seen from the attached transcript notes of the relevant portion of the RSC Constitutional Subcommittee meeting held on 17 June 2022, Andrew Macaulay referred to the Sheep Producers Australia Limited precedent in support of the proposal that the option of retaining the existing CCA entity and amending its constitution be adopted to form Cattle Australia.

The following extract is drawn from the attached Sheep Producer Australia background description of its formation.

The Sheepmeat Council of Australia transitioned from an incorporated association to Sheep Producers Australia Limited (SPA), a company limited by guarantee in 2017.

The change was promulgated as an effort by the Sheepmeat Council of Australia to modernize its operations to better serve Australia's sheep producers and reflect contemporary governance standards.

This move to a new governance framework has been guided by the Sheepmeat Council of Australia members – the state farming organizations.

Representatives from each were involved in a series of consultation meetings, along with other key stakeholders, to determine a suitable model for the future of the sheep and lamb industry's peak body.

The decision to transition to SPA was made at a special general meeting of members in August 2017 and the new organization was officially launched following the Annual General Meeting on November 14.

The attached background paper on the evolution of SPA from the Sheepmeat Council of Australia:

- *refers to the need for structural change in recent years because the environment in which the former council was operating had changed significantly since it was established in 1978, notes that*

- *the Sheepmeat Council of Australia's funding source was mostly state-based contributions and budget pressures had meant this was likely to decrease to unsustainable levels, and*
- *that the SPA new entity – a company limited by guarantee – provides a solid legal structure ,*
- *that means SPA has the ability to source additional and external funding and partnerships to ensure it can remain financially viable.*

Relevant Distinctions Between the Sheep Producers Australia and Cattle Australia Formation Processes

Sheep Producers Australia was formed at the instigation of the existing SFO members of the Sheepmeat Council of Australia Peak Industry Council without the involvement of other sheep meat industry bodies which is in sharp contrast to the situation facing the RSC where a combination of organizations including NPG and CPA and its several separate organization constituent members and a number different organisational bodies and representatives in the ILF as well as the current cattle producer Peak Industry Council CCA and the SFO's are actively involved in the reform process

Australia's grass-fed cattle producer transaction levy payers have been facing the same need for structural organizational change for more than a decade as the Sheepmeat Council of Australia were in 2017 because of changing industry organizational needs flowing from the changes in the local and global social and financial environment

Both the 4a.CPA/CCA industry restructure 'Plan on a Page' which was the product of the Federal Government facilitated Roundtable Conferences between CPA and CCA in late 2020 and early 2021 and the 4b CCA industry restructure 'Plan on a Page' following CCA member meetings that were put before the Industry Leaders Forum for consideration at the end of September 2021, called for the formation a new grass-fed cattle producer Peak Industry Council with a democratic and transparent structure supported by the grass-fed cattle producer industry to replace CCA rather than a reconstituted CCA

The task and obligation of the RSC is to act in the best interests of all Australia's grass-fed cattle producer transaction levy payers in a way that will maximize the long-term engagement of those levy payers with their new Peak Industry Council. There are many that think that outcome will not be achieved if Cattle Australia is formed as an evolutionary product of CCA and seen by many of the disparate grass-fed cattle producer groups to simply be a re-badged CCA.

Pros & Cons of an Evolutionary CCA V a New Cattle Australia Entity Option.

As promised in my email to the RSC on Monday 29 June 2022 I have now reviewed the matters referred to by Andrew Macaulay in relation to the formation process for the establishment of Cattle Australia during the Friday 17 June 2022 RSC Constitution Committee meeting in the context of the advice received from DAWE on Monday 20 June 2022 a copy of which has been inserted as a cut and paste copy above – and now set out the following review outline on the pros and cons of the two Cattle Australia establishment alternative options for the RSC's consideration

KWM Advice

Annexure A to the 8 June 2022 KWM advice to the RSC on the proposed Cattle Australia constitution sets out a number of pro's & con's to each of the alternative Cattle Australia formation options . A list of

relevant KWM pro's & con's of the two formation options for Cattle Australia of any significance are set out immediately below .

KWM Reconstituted CCA Option Pro's

None specified

KWM Reconstituted CCA Option Con's

Special resolutions (i.e. 75%) of CCA members & each class of CCA members required to amend the existing constitution

Special resolutions of CCA members and CCA Founding Members would have to be passed to provide for SFO's to be part of the Policy Advisory Council

The consent of each SFO to the amended constitution is required to minimize legal risk for the consent of all SFO's to the terms of the CA Constitution

A possible requirement for non CCA Non Founding Representative Member to have to consent to cease membership in CCA or alternatively for CCA to enter into a Court scheme of arrangement

IF any current CCA board member refused to resign from CCA then action may need to be taken under the Corporations Act for their removal by 22 November 2022

KWM Newly Incorporated Cattle Australia Option Pro's

None specified

KWM Newly Incorporated Cattle Australia Option Con's

All signatories to RMIF MOU would need to agree to CA becoming a party to the MOU

Any existing MLA/CCA Services Agreement that had not been terminated by MLA on one months-notice would need to be transferred to CA.

CCA and CA would need to agree on the transfer of any CCA liabilities to CA.

Other Possible Evolutionary CCA V a New Cattle Australia Entity Options Pro's & Con's .

Other Possible Reconstituted CCA Option Pro's

A more internally acceptable process for all or some SFO's

Other Possible Reconstituted Option CCA Con's

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Despite advice that it was proposed that a reconstituted CCA 's constitution would be a constitution agreed to by the RSC -a number of grass-fed cattle producers have referred to a reconstituted CCA Peak Industry Council as CCA rebadged and indicated a lack of willingness to engage with a rebadged CCA

A protracted and difficult constitutional amended process by CCA

The need for a specific MOU agreement between the CCA , SFO's and the other members of the RSC with respect to the provisions of the amended CCA constitution and the constitutional amendment and new board election process

A protracted and difficult supervisory oversight role for the RSC during the CCA constitution amendment and new board election process

Other Possible Newly Incorporated Cattle Australia Option Pro's

A higher level of Australian grass-fed cattle producer engagement with Cattle Australia

Possibility of Cattle Australia being formed and appointed to replace CCA as the grass-fed cattle producer Peak Industry despite one or more SFO's not agreeing to that course of action

A simpler and more straightforward industry reformation process

Avoidance of any future Cattle Australia liability for unforeseen legal claims against CCA that are not taken into account in any change -over written transfer of existing liability agreement between CCA and Cattle Australia

Other Possible Newly Incorporated Cattle Australia Con's

A lack of engagement with Cattle Australia by some SFO's grass-fed cattle producer members