

Chapter 5

Red Meat Memorandum of Understanding

Origins and purpose

5.1 The *Australian Meat and Livestock Industry Act 1997* (Act) provides the legislative framework for the structural and funding arrangements of the red meat industry and its marketing and R&D activities. At the time of the originating bill's introduction, the Minister for Primary Industries and Energy, the Hon John Anderson MP, noted that the bill marked the final steps towards "empowerment by providing the industry with a structure which offers ownership and management of its own affairs".¹

5.2 In his second reading speech, Minister Anderson detailed the findings of a 1996 joint industry and government meat and livestock industry reform task force, which was responsible for reviewing the then *Meat and Live-stock Industry Act 1995*. More than twenty-one years on, and the findings of the 1996 task force are as relevant today:

The task force found that the current statutory arrangements, which had worked well in the past, needed to be adjusted to deliver what industry required for the future. Prevailing and future commercial realities demand a structure which can deliver more flexible and focused commercial programs and operations. A sense of industry ownership and deeper involvement by levy-paying stakeholders is also required.²

5.3 The passage of the *Australian Meat and Livestock Industry Act 1997* (Act) led to the establishment of the Red Meat Advisory Council (RMAC) and the three incorporated companies, MLA, AMPC and Livecorp. While the red meat industry's structural arrangements are set out under the Act, it is the Red Meat Industry Memorandum of Understanding (MOU) that underpins these arrangements.

5.4 Providing linkages between the three corporations, together with the Commonwealth Government, Peak Industry Councils (PICs) and RMAC, the MOU was designed to "achieve cooperation in the overall interests of the red meat industry".³

5.5 As noted by the Department of Agriculture and Water Resources (the department), the MOU incorporated the definition of agreed roles and responsibilities; funding, planning and service delivery arrangements; the Meat Industry Strategic

1 The Hon John Anderson MP, Minister for Primary Industries and Energy, *House of Representatives Hansard*, 1 October 1997, pp. 8845-6.

2 The Hon John Anderson MP, Minister for Primary Industries and Energy, *House of Representatives Hansard*, 1 October 1997, p. 8846.

3 Australian National Audit Office, *Restructuring of Meat and Livestock Statutory Organisations*, 1998, p. xi, https://www.anao.gov.au/sites/g/files/net616/f/ANAO_Report_1997-98_50.pdf (accessed 16 May 2017).

Plan; industry reserves; research and development; and the seven schedules.⁴ The MOU committed all industry sectors to the principles laid down in the Meat Industry Strategic Plan (MISP).

5.6 As part of its report on the 1997-98 reforms and restructure, the Australian National Audit Office (ANAO) commented that:

The policy framework for the new structural arrangements was defined by the Government. The new arrangements are designed to minimise Government involvement in industry affairs, empower industry in running its own affairs and encourage ownership and leadership by industry. The Government did not prescribe the operational details of the new structures. The latter were to be the responsibility of the industry. Remaining key linkages involving Government were to be established in the MoU and through Deeds of Agreement directing appropriate use and accountability for compulsory levies, industry reserves and Commonwealth matching funds for R&D with the new companies.⁵

Peak Industry Councils (PICs)

5.7 Under the MOU, each PIC is responsible to "provide leadership, formulate policies, set strategic imperatives and agree overall levels of expenditure" for the whole of the industry sector it represents. Another key role of the PICs under the MOU is to "co-operate through RMAC with other Peak Industry Councils in developing a vision and strategic imperatives for the industry in consultation with MLA through MISP".⁶ In addition, the PICs are tasked with developing "jointly with MLA goals for achieving the vision and strategic imperatives for the industry sector it represents".⁷

5.8 Minister Anderson noted in his second reading speech that while there will always be dissenters and detractors of any systems put in place, "the peak councils are expected to be as broadly representative of their sectors' interests as possible".⁸

5.9 In the years since the introduction of the 1997-98 reforms, red meat industry PICs have faced numerous challenges; including the provision of effective representation and a declining membership base.⁹ Part of the challenge for PICs such

4 The seven schedules include RMAC, joint and core functions, AUS-MEAT Ltd, SAFEMEAT, funding, crisis and issues management, and intellectual property. Department of Agriculture and Water Resources, *Red meat livestock industry structure*, 2016, <http://www.agriculture.gov.au/ag-farm-food/meat-wool-dairy/red-meat-livestock/facts> (accessed 17 May 2017).

5 Australian National Audit Office, *Restructuring of Meat and Livestock Statutory Organisations*, 1998, p. xii, https://www.anao.gov.au/sites/g/files/net616/f/ANAO_Report_1997-98_50.pdf (accessed 16 May 2017).

6 Red Meat Industry MOU – Version 4 (October 2010), p. 8.

7 Red Meat Industry MOU – Version 4 (October 2010), p. 8.

8 The Hon John Anderson MP, Minister for Primary Industries and Energy, *House of Representatives Hansard*, 1 October 1997, p. 8847.

9 Beef Central article, *Life still in grassfed cattle restructure*, 21 January 2016.

as the CCA has been the diverse range of producers they are required to represent. With approximately 82,000 properties in Australia producing beef, the CCA has a considerable engagement and representation challenge.¹⁰

5.10 The challenges for PICs have been repeatedly identified, in evidence to the committee, in various industry reports and by those engaged in the industry. Representation has remained a primary issue. In March 2014, the Australian Farm Institute (AFI) released a report into the effectiveness of farmers' advocacy groups, which noted the considerable difficulties facing farmer representation and advocacy bodies in Australia "exemplified by declining membership, fragmentation, and perceived ineffectiveness".¹¹ This was followed in August 2014, by the publication of the Newgate Communication review of farm sector representation; which recognised that effective representation of the farm sector is impeded by structural issues, changing membership, revenue and restricted resources.¹² More recently, the Chairman of RMAC, Mr Ross Keane, noted in January 2016 that the "operating environment for Peak Industry Councils today is vastly different to that of the late 1990s".¹³

Red Meat Advisory Council (RMAC)

5.11 The Red Meat Advisory Council (RMAC) is primarily responsible for providing advice to government on issues affecting the whole industry. The directors of RMAC comprise the chairs of the PICs who serve as voting members. Under the terms of the MOU, RMAC serves as the custodian of both the MISP and the MOU. RMAC is also tasked with providing an interface for resolving sectoral differences, in a manner that does not adversely affect industry but rather, promotes the image and purpose of the industry.

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.

5.13 In its 2014 report on the grass-fed sector of the cattle industry, the committee recommended that the Minister for Agriculture and Water Resources disband RMAC.

10 Cattle Council of Australia, *Proposed New Structure and Budget*, 2015, p. 5.

11 Australian Farm Institute, *Opportunities to Improve the Effectiveness of Australian Farmers' Advocacy Groups – A Comparative Approach*, March 2014.

12 Newgate Communications, *The Newgate Review of the Future of Australian Farm Sector Representation*, August 2014.

13 Mr Ross Keane cited in Beef Central article, *Business analysis chosen to review peak industry council operations*, 29 January 2016.

In his response, the Minister indicated that RMAC would not be abolished because it had a function to "perform in administering the industry fund". He did, however, acknowledge that RMAC needed to "lift their game".¹⁴ Following the committee's recommendation, the government noted in its July 2015 response that:

The government does agree that improvements can be made to the efficacy of the Red Meat Advisory Council in terms of the delivery of its core mission and therefore notes the most beneficial course of action is to work with the organisation to make it more transparent and accountable to address the concerns raised in the inquiry.¹⁵

5.14 The committee is not satisfied that RMAC has demonstrated sufficient improvement in terms of efficacy or accountability over the past two years. There also remain longstanding concerns that the very structure of RMAC inhibits its role to effectively advocate for and represent an agreed industry position. The committee recognises that the role and responsibilities of RMAC requires a comprehensive review leading to either substantial restructure or abolition.

Changing circumstances

5.15 There is no doubt that market and industry circumstances have changed considerably since the 1997-98 reforms. A number of factors, including vertical integration, market share, an increasing concentration of supermarket power, and extended feed-lotting have transformed the industry's operating environment. In addition, the dynamics around consumer attitudes, growing competition from other protein sources, international trade arrangements, animal welfare challenges and technological developments will continue to have an impact on the industry's performance.

5.16 These changing industry dynamics and challenges have also placed considerable pressures on the industry's institutional and structural arrangements. RMAC has previously noted that the dramatic changes that have taken place since the 1997-98 reforms, have transformed the sectors that the structures were designed to service. It has been suggested that it would be rare that any representative structure that was designed nearly 20 years ago could, in the absence of any reform, continue to "serve its customers with optimal efficiency".¹⁶

5.17 In mid-2015, NH Food Australia Director, Mr Stephen Kelly, argued that given the MOU was established approximately 17 years ago, it was time that it was re-examined. Mr Kelly made the point that input into an MOU review should be sought

14 Beef Central article, The Hon Barnaby Joyce MP, Minister for Agriculture, *Opinion piece: Strengthening the future of the grassfed cattle industry*, 15 July 2015.

15 Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee report: *Inquiry on industry structures and systems governing levies on grass-fed cattle*, July 2015, p. 6.

16 RMAC cited in Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 22.

not just from the MOU signatories but also from industry stakeholders and other interested parties.¹⁷

5.18 The extent to which these arrangements no longer reflect the realities of the industry is clearly evident in the relationship between the CCA and MLA. A primary role of the CCA is to guide and assess MLA's performance in the expenditure of grass-fed cattle levy funds. However, the CCA's resourcing constraints have made it extremely difficult, if not impossible, for the PIC to apply adequate scrutiny to, or to exert influence over, the well-resourced MLA.

5.19 A recent performance review of MLA (and the MLA Donor Company) conducted by ACIL Allen Consulting observed that the accountability arrangements outlined in the MOU "have proven to be complex and unclear". Further, the review argued that if partnerships under the MOU are to work effectively there needs to be a level of trust between MLA, AMPC and LiveCorp. ACIL Allen also indicated that in undertaking the review it had:

...received considerable feedback that relationships between MLA and AMPC have broken down and are largely a result of personality-based issues. Such relationships will need to be repaired so the effectiveness of these partnerships can be improved in the future.¹⁸

5.20 The recent developments in relation to OCM and the new DEXA technology demonstrate the complexity of the relationships between MLA, AMIC and AMPC and their respective levy payers.

5.21 There are conflicting views, for example, regarding the progress of OCM technology development. Several large processors claim that a commercially viable system for beef is still "years away", while MLA has continued to assert that the technology for beef is "close to being operations-ready". At the same time, AMIC assert that several of Australia's larger processors are already well advanced in their investigation of OCM technology "for their own commercial purposes", and have yet to determine whether the DEXA technology "will fit their objectives".¹⁹ Given these conflicting positions, it remains difficult for industry stakeholders to get a clear picture of progress.

5.22 Questions also remain about the decision making process in relation to levy-payer funds, and again, discussion around these issues elicit differing views.

5.23 In November 2016, MLA announced its proposal to install DEXA technology in 90 AUS-MEAT accredited abattoirs across Australia, at an estimated cost of \$150 million. Reports at the time indicated that processors had been "taken by surprise" by the announcement and claimed a "lack of prior consultation" over the proposal. In

17 Beef Central article, *Is it time to re-examine red meat industry MoU?* 31 July 2015.

18 ACIL Allen Consulting, *Performance Review of Meat and Livestock Australia and the MLA Donor Company*, April 2016, p. 99.

19 Beef Central article, *Processors reject MLA's objective carcass measurement proposal – in its current form*, 23 February 2017, [p. 2].

correspondence to MLA Chair, Dr Michele Allan, AMIC questioned MLA having responsibility for "using industry (or public) funds for such a purpose in the red meat processing industry".²⁰ Further, AMIC noted that:

The processing sector's service provider, AMPC, has no mandate to facilitate structural engineering in the industry in this fashion, and accordingly AMIC/AMPC could not endorse the use of funds for this purpose.²¹

5.24 It is also difficult to ascertain whether levy payers themselves have been consulted about the use of their funds. The EY review noted, for example, that:

...consultations with the industry suggest a considerable portion remain unconvinced that a technology investment of this size is the right solution to meet the needs of industry at this time. Should the consideration of possible solutions be undertaken and provided to the industry, it would provide them with the opportunity to participate in the decision making process on how best to meet the needs, opportunities and challenges which may or may not require a large technology investment.²²

5.25 The role of RMAC has also been repeatedly brought into question. As previously noted, one of the primary roles of RMAC is to provide advice to the Minister for Agriculture and Water Resources on cross-sector or whole-of-industry matters. At the same time, RMAC is responsible to develop and monitor the MISP which provides the industry's overarching strategic framework while serving as the custodian of the MOU.

5.26 As far back as 2002, the Rural and Regional Affairs and Transport (RRAT) legislation committee found that the existing RMAC structure inhibited its capacity to effectively represent the whole of industry. At that time, the committee recommended that the Minister for Agriculture [and Water Resources] engage the industry in open consultation on options for a reformed advisory structure.²³ However, it was the events surrounding the 2011 suspension of the live cattle export trade to Indonesia, which demonstrated the extent to which the current bodies and structures do not work. As the conflicting interests of different industry sectors came to the fore, RMAC was incapable of establishing a consensus position, and therefore unable to fulfil its advisory role to government. The committee concluded that:

The event brought to light not only the volatility of the trading environment but also raised serious questions about industry representation, preparedness and capacity to defend and promote the industry's interests in

20 Beef Central article, *Processors reject MLA's objective carcass measurement proposal – in its current form*, 23 February 2017, [pp 3-4].

21 Beef Central article, *Processors reject MLA's objective carcass measurement proposal – in its current form*, 23 February 2017, [p. 4].

22 Ernst and Young, *Independent Review of the proposed installation of DEXA in AUS-MEAT registered processing facilities, Final Report*, 9 June 2017, p. 13.

23 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 60.

an effective and coordinated manner. The need to respond to the ban brought with it confusion regarding the roles and responsibilities of MLA, CCA and RMAC. CCA argued that the ban revealed the extent of scope creep by MLA which had overreached into a 'strategic policy void' largely because CCA had been unable to effectively develop and manage strategic policy.²⁴

5.27 The committee's views were recently confirmed by RMAC's response to the ACCC's recommendation that it take on the leadership role in implementing industry reform as detailed in Chapter 2.

5.28 An ACIL Allen review of MLA which was completed in 2016, noted that MLA was operating under the framework of an outdated industry agreement. It also made the following observations regarding MLA's performance under the MOU:

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 2010.²⁵

5.29 These events and dynamics demonstrate the extent to which the current industry structures and roles are not functioning as originally envisaged. As it would appear that the MOU is no longer the means through which cooperation with regard to the overall interests of the red meat industry can be achieved, it must be reviewed. As a first step, the roles and responsibilities of the PICs must be assessed. At the very least, these roles should be strengthened, particularly in relation to the service companies including MLA.

5.30 Following its years of inquiring into the red meat industry, the committee has come to the firm view that current arrangements no longer reflect the realities of the industry. In no way is this better exemplified than in relation to the grass-fed cattle sector. As the committee noted in its 2014 report:

Reform to the levy system and industry structures must be predicated on a commitment to enhance value for producers and not the interests of intermediary bodies that service the industry. Each step in the supply chain must be optimised to deliver a competitive advantage. However,

24 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 53.

25 ACIL Allen Consulting, *Performance Review of Meat and Livestock Australia and the MLA Donor Company*, April 2016, p. 97.

considerable evidence before the committee highlighted that the current cattle industry structures are not effective in meeting the collective needs of the industry, or enabling the grass-fed sector to maximise its ability to respond to market challenges and capture opportunities in R&D.²⁶

Grass-fed cattle industry restructure and funding quandary

5.31 The industry has, over some years, seen an increased concentration of market power in the processing and retail sectors. This contrasts sharply with the diversity of the producer sector – in terms of its geographical spread, size, and target markets – and the relative weakness of producer advocacy groups (and their unequal bargaining power).

5.32 In its 2014 report into the grass-fed sector of the cattle industry, the committee outlined its concerns about the fact that producers have limited ability to directly influence, or engage with, levy investment decisions. The inquiry found that the possibility of producers being able to gain greater control over their levy expenditure through engagement at MLA Annual General Meetings (AGMs) – or through industry representative bodies – is virtually non-existent. As previously noted, the committee found that the CCA is both under-funded and under-resourced, and is therefore hamstrung in its ability to undertake its roles and responsibilities, and meet its obligations under the MOU. The committee made recommendations which supported the establishment of a producer-owned body which "would address problems of representation and strengthen producer accountability by establishing a direct relationship between producers and the body".²⁷

5.33 The committee argued that a producer-owned body could be achieved through legislative means, "by combining PIC policy development responsibilities with the statutory marketing and separate statutory R&D corporation authority".²⁸ In recommending the establishment of a producer-owned body, the committee argued that reforming the CCA to achieve the required outcomes "should be examined as part of this process".²⁹

Structure for a new representative body

5.34 Following the release of the committee's 2014 report, a range of grower groups, including the CCA, came together to discuss the formation of a new,

26 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 80.

27 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 82.

28 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 82.

29 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 83.

democratic, representative industry organisation – which would come to be known as Cattle Australia.³⁰

5.35 In December 2014, grass-fed producer representatives – and other red meat industry stakeholders – met with the Minister for Agriculture and Water Resources in Brisbane. The agreed outcome taken from this this meeting was that:

...the grass-fed producer groups would go away and return in February [2015] with a new model for national grassfed producer representation that they could all agree upon, while the minister and his staff would explore whether the new body could receive statutory levy funding – either through taking over control of all grassfed levy revenue as recommended by the Senate, or by receiving some direct levy revenue to help fund its operations.³¹

5.36 In February 2015, in what was described by one commentator as a "rare and perhaps unprecedented display of unity" from grass-fed producer groups, a new restructure model was presented to the Minister for Agriculture and Water Resources. The model presented to the Minister proposed:

- replacing the CCA with a fully directly-elected board of grass-fed levy payers who would represent 15 cattle-producing regions across Australia;
- that every grass-fed levy payer would have the right – whether or not they chose to exercise it – to vote to elect their grass-fed industry representatives, stand for election themselves, and contribute to policy development;
- that the new body would primarily be funded through the statutory grass-fed levy.³²

5.37 It was envisioned that the proposed new body would provide all grass-fed levy payers with a vote. It was argued, therefore, that once established, the new body would be able to legitimately claim to be more representative than existing bodies. Further, it was reported that:

The new body would not stifle diversity of opinion but should encourage it. Producer sub-groups would still have the opportunity to use their own networks and resources to attempt to have their own representatives elected to the board and to stand on the merit of their arguments.³³

30 The united position was developed through consultation with all state farming organisations, the Northern Pastoral Group, the Australian Meat Producers Group (AMPC), the Australian Beef Association, the Concerned Cattle Producers (CCP) and other red meat peak industry councils.

31 Beef Central article, *Grassfed restructure: Where is it at? Where to from here?*, 30 July 2015.

32 Beef Central article, *Grassfed restructure: Where is it at? Where to from here?*, 30 July 2015, and Queensland Country Life article, *Agriculture Minister Barnaby Joyce makes gradual changes to grass-fed cattle industry*, 4 February 2016.

33 Beef Central article, *Grassfed restructure: Where is it at? Where to from here?*, 30 July 2015.

Funding a new representative body

5.38 Having reached agreement on the structure of the new representative body and presenting it to the Minister for Agriculture and Water Resources, the grass-fed cattle sector turned its attention to the question of how the new body would be funded. To assist with this next phase of the process an 'Implementation Committee' was formed.

5.39 The Implementation Committee – which includes representatives from the CCA, the Northern Pastoral Group (NPG), the Northern Territory Cattlemen's Association (NTCA), the ABA, and the Australian Meat Producers Group (AMPG) – was given the task of raising an appropriate level of seed funding to establish the 'Cattle Australia' representative body. The Implementation Committee was also requested to:

- suggest options for securing long-term funding;
- develop an Implementation Process Plan; and
- lobby the Commonwealth to implement a 'workable funding model' for the new grass-fed cattle representative body.³⁴

5.40 The Implementation Committee's preferred funding option was that the new representative body be primarily funded through the \$5 per head statutory grass-fed cattle industry levy. It was argued that the body would be providing representation for grass-fed levy payers and, as such, it should be given full control of the levy (as per the committee's recommendation) or at the very least, receive a redirected portion of the levy.³⁵

5.41 Those in support of this argument suggested that the body should receive approximately seven percent of annual grass-fed levy revenue – which amounts to approximately \$4 million of funding. In 2016, the CCA also estimated that \$4 million was the minimum amount required to set up the new national producer organisation (and develop sustainable funding streams).³⁶

5.42 Those who opposed this funding option argued that the grass-fed sector does not have sufficient control over grass-fed levy funds through the MOU, which – amongst other things – defines MLA's responsibilities to each PIC. Further, it was argued that it is the CCA's responsibility to scrutinise MLA's grass-fed levy

34 Hunt Blog Newsletter, *Cattle Producers need a strong representative body to counteract supermarket and processor power, Part 2, Conclusions and Solutions*, 26 April 2016, p. 3, <http://www.huntpartners.com.au/Shared/Sites/huntpartners/Assets/Your%20Files/HuntBlog%20Newsletter%20-%20Cattle%20Producer%20Representative%20Bodies%20-%20Part%202.pdf> (accessed 17 May 2017) and Beef Central article, *Grassfed cattle industry restructure a priority for new Cattle Council CEO*, 18 January 2017.

35 Beef Central article, *Grassfed restructure: Where is it at? Where to from here?*, 30 July 2015.

36 Beef Central article, *Grassfed cattle restructure group meets*, 1 March 2017, [p. 2].

expenditure and, if necessary, provide direction to MLA on how investments can be improved.³⁷

5.43 However, recent reports indicate that the original proposal – which would see a portion of the funds generated from the \$5 per head levy re-directed to pay for the restructure and the ongoing activities of the new representative body – still has strong support amongst grower groups.³⁸

5.44 In terms of possible funding avenues, prior to the June 2016 federal election, the Coalition announced a proposal to set up a \$5 million 'Leadership in Agricultural Industries' (LIA) fund. It was stated that the purpose of the funding – which would be available to all representative organisations across the agricultural sector – was to assist agricultural representative groups (including PICs) develop leadership skills and transition through structural adjustments. At the time, the CCA welcomed the Coalition's announcement and suggested that the LIA funding would enable organisations such as the CCA to continue their advocacy roles.³⁹

5.45 At the same time, the CCA re-stated its commitment to fostering leadership within the beef industry through its own initiatives and argued that the announcement regarding LIA showed "there is strong support for these programs in industry". Given the more recent announcement, however, that individual grants are expected to be between \$100,000 and \$500,000, the LIA fund is unlikely to meet CCA's predicted funding requirement of \$4 million.⁴⁰

5.46 Given the proposed new model can only proceed if, and when, a viable and sustainable funding model can be identified, stakeholder groups such as the CCA argued that the first matter that must be dealt with before a new structure can be implemented is that of sustainable funding:

Provision of funds from the Cattle Transaction Levy must be assured. The structural transition can only commence with a sustainable funding source.⁴¹

Minister's response to committee's report and recommendation for a new representative organisation

5.47 The Government tabled its response to the committee's 2014 report into the grass-fed cattle sector in July 2015. At the time, the Minister for Agriculture and Water Resources, the Hon Barnaby Joyce MP, stated that the grass-fed cattle industry

37 Beef Central article, *Grassfed restructure: Where is it at? Where to from here?*, 30 July 2015, [p. 4].

38 Beef Central article, *Grassfed cattle restructure group meets*, 1 March 2017, [p. 2].

39 Beef Central article, *Coalition fund may boost Cattle Council restructure plans*, 28 June 2016, [p. 2].

40 Beef Central article, *Grassfed cattle restructure group meets*, 1 March 2017, [p. 2] and Department of Agriculture and Water Resources, *Leadership in Agricultural Industries Fund*, <http://www.agriculture.gov.au/ag-farm-food/leadership-ag-fund> (accessed 25 July 2017).

41 Cattle Council of Australia, *Proposed New Structure and Budget*, 2015, p. 5.

"would now have increased stability moving forward", and announced that his goal in initiating the process had been:

...to see the creation of a viable representative organisation that, without fear or favour, can advocate on behalf of grass-fed beef producers, can oversee levy investment that delivers real and beneficial outcomes to producers and deliver more transparency in how levy dollars are spent.⁴²

5.48 In responding to the committee's report, Minister Joyce advised that the Government would ensure the terms of reference for the 2015 performance review of MLA would examine options to improve transparency, accountability and engagement with levy-payers. Minister Joyce also acknowledged that research and development corporations within the red meat sector needed "to vastly improve the manner in which the benefits of projects invested in are communicated to levy payers".⁴³

5.49 However, the Government's response to the committee's grass-fed beef levy inquiry also made it clear that the R&D and marketing component of the levy would not be redirected to a new organisation on the basis that the full redirection of the levy would "fundamentally destabilise" MLA, to the "detriment of other components of the red meat industry".⁴⁴

5.50 Interestingly, in a July 2015 opinion piece, Minister Joyce gave an assurance that any new industry organisation when established would have 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".⁴⁵ At the same time, however, the Minister argued that funding the new organisation through compulsory acquired levies (which are collected by the Government) would make the new organisation beholden to the Government and unable to freely express its views.⁴⁶ As an alternative, the Minister asserted that strengthening the MOU (between the new cattle representative organisation and MLA) would be adequate, and give grass-fed producers the control that they desire over their levies.⁴⁷

42 Minister for Agriculture, Media Release, *Strengthening the future of grass-fed cattle industry*, 15 July 2015, [p. 1].

43 Minister for Agriculture, Media Release, *Strengthening the future of grass-fed cattle industry*, 15 July 2015, [p. 1].

44 Australian Government, *Australian Government Response to the Senate Rural and Regional Affairs and Transport References Committee report: Inquiry on industry structures and systems governing levies on grass-fed cattle*, July 2015, p. 3.

45 Beef Central article, The Hon Barnaby Joyce MP, Minister for Agriculture, *Opinion piece: Strengthening the future of the grassfed cattle industry*, *Beef Central*, 15 July 2015.

46 Beef Central article, *Grassfed cattle restructure group meets*, 1 March 2017.

47 Beef Central article, *Barnaby responds to grassfed inquiry: backs grower restructure, but funding unresolved*, 15 July 2015.

Australian Farm Institute (AFI) review

5.51 In January 2016, RMAC announced that the Australian Farm Institute (AFI) would lead a review; to identify possible new operating models to support the industry's peak advocacy and policy bodies. RMAC announced that the review would identify practical options for future funding models from the various red meat PICs. It was also proposed that the review would consider new and innovative revenue streams, as well as the cost and business structures for red meat PICs.⁴⁸

5.52 The AFI's inquiry was set to commence in February 2016, with a final report due in mid-2016. According to RMAC Chairman, Mr Ross Keane, the project would provide the industry's representative bodies with options to assist them to establish sustainable operating models for their respective organisations.⁴⁹ Paid for by the Red Meat Industry Fund, it was also proposed that the research assess the status of all PICs, several of which are struggling with declining membership bases.⁵⁰ It was confirmed during the inquiry that the report was finalised in 2016 and provided to the RMAC board. The AFI's report has, however, yet to be made public.⁵¹

Alternative operating model – Sheepmeat Council of Australia

5.53 The cattle transaction levy system was the subject of the committee's 2014 report into the grass-fed sector of the cattle industry. In that report, the committee argued that it is essential that peak industry bodies are both robust and sustainable, and that it is vital that levy funds are used effectively. To this end, the committee reaffirms the recommendation it made in its 2014 report, that the ANAO conduct an audit of the cattle transaction levy system and that it trace the levy from its inception and focus on the revenue from, and expenditure of, the respective components of the levy.

5.54 The committee is aware that the issue of peak body sustainability has recently been the central focus for the sheepmeat industry. The Sheepmeat Council of Australia (SCA) recently enlisted independent, external consultants to undertake a comprehensive review of its organisational structures and governance, which took the emotive and potentially divisive decisions out of the hands of industry stakeholders. Following the completion of the review, the recommended changes were voted upon and ultimately adopted by the SCA Board.

5.55 It is noted that the SCA's restructure was carried out at minimal cost, and without any money from the public sector. The results of the SCA reforms include the appointment of a skills-based, remunerated board, more opportunities for producers to

48 Seedstock Central article, *Effective industry representation in red meat sector welcomed*, 11 February 2016.

49 Beef Central article, *Business analyst chosen to review peak industry council operations*, 29 January 2016.

50 Beef Central article, *Life still in grassfed cattle restructure*, 21 January 2016.

51 Beef Central article, *Grassfed cattle restructure group meets*, 1 March 2017 and Mr Don Mackay, Independent Chair, Red Meat Advisory Council, *Committee Hansard*, 16 August 2017, p. 7.

join as independent members, and an organisation that still represents state farming organisations. The overall outcome of the process is a more open, democratic and participatory organisation. It is proposed that the changes to the SCA will come into effect from November 2017.

Review of the MOU

5.56 As far back as 1997, then Minister for Primary Industries and Energy, the Hon John Anderson, MP noted that industry itself had recognised that proposed new representative arrangements offered a necessary opportunity to bring about a fundamental cultural change.⁵² The industry has once again recognised the need for change.

5.57 The industry has become fragmented. This is reflected by the fact that approximately 77,000 cattle properties in Australia supply to around 100 processors, of which four companies dominate the market.⁵³ Amongst other things, the disparity between producers and processors has contributed to a belief that processors have a competitive advantage, which has in turn fuelled a general lack of trust between the various sectors of the red meat industry.

5.58 Strengthening the role of the new producer representative body in relation to MLA is viewed by many as a necessary reform. It has also been argued, however, that this initiative will not change the underpinning structures and relationships as set out in the MOU – which no longer reflect the current realities of the red meat industry.

5.59 Stakeholders have long acknowledged the need to strengthen the governance and representation arrangements for the red meat industry. A growing number of stakeholders are also recognising that if the red meat industry is to remain competitive and sustainable, a thorough review and reform of the MOU is required.

5.60 As part of its policy document regarding a new structure, the CCA recognised the need for changes or additions to the MOU to "ensure adequate control over MLA programs and activities".⁵⁴

5.61 Mr David Byard, CEO of the Australian Beef Association (ABA), also noted that:

It is common ground amongst all rural industry groups and institutions that the current organisational representative structures have outlived their time

52 The Hon John Anderson MP, Minister for Primary Industries and Energy, *House of Representatives Hansard*, 1 October 1997, p. 8851.

53 Australian Meat Processor Corporation, *Strategic Risks Facing the Australian Red Meat Industry*, August 2016, p. 32, http://www.ampc.com.au/uploads/cgblog/id65/42161_AMPC_RiskDocumentvLR.pdf (accessed 11 May 2017).

54 Cattle Council of Australia, *Proposed New Structure and Budget*, 2015, p. 6. <http://unitedstockowners.com.au/wp-content/uploads/2015/02/New-CCA-Structure-Detail.pdf> (accessed 16 May 2017).

and are no longer sustainable either from a funding or operational perspective in the long term.⁵⁵

5.62 The point was also acknowledged by the Government in its response to the committee's 2014 grass-fed levies report, when it indicated that a 'revision' of the MOU was necessary to:

...more clearly define the roles and responsibilities of each entity around consultation requirements and agreement on forward work plans and levy expenditure.⁵⁶

5.63 Following its years of inquiring into the red meat industry, the committee has also come to the firm view that current statutory arrangements no longer reflect the realities of the industry. This is no better exemplified than in relation to the grass-fed cattle sector. As the committee noted in its 2014 report:

Reform to the levy system and industry structures must be predicated on a commitment to enhance value for producers and not the interests of intermediary bodies that service the industry. Each step in the supply chain must be optimised to deliver a competitive advantage. However, considerable evidence before the committee highlighted that the current cattle industry structures are not effective in meeting the collective needs of the industry, or enabling the grass-fed sector to maximise its ability to respond to market challenges and capture opportunities in R&D.⁵⁷

5.64 ACIL Allen's performance review of MLA examined the role of MLA, the representative structure of the red meat industry and the need for reform. The 2016 report concluded that there were a number of issues currently facing the red meat industry, which could only be addressed:

...if the red meat industry revisits the MOU. The fact that the PICs are assessing their current positions, along with this report and last year's AMPC performance review, means that by mid-year the industry will have a strong understanding of the strengths and weaknesses of most organisations involved in the MOU. At that stage the industry needs to make a decision on whether clarification/re-confirmation of the MOU and introduction of more effective conflict resolution will suffice or more fundamental reform is required.⁵⁸

5.65 The committee has made the point previously that the legislative landscape has not kept up with industry changes. This is evident with regard to the MLA Donor

55 Beef Central article, David Byard, Australian Beef Association, Opinion: Get on with Senate recommendations for grassfed reform, 1 February 2016.

56 Australian Government, *Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee report: Inquiry on industry structures and systems governing levies on grass-fed cattle*, July 2015, p. 3.

57 Senate Rural and Regional Affairs and Transport References Committee, *Industry structures and systems governing levies on grass-fed cattle*, September 2014, p. 80.

58 ACIL Allen Consulting, *Performance Review of Meat and Livestock Australia and the MLA Donor Company*, April 2016, p. 20.

Company (MDC). The *Australian Meat and Live-stock Industry Act 1997* provides MLA with the legislative authority to establish a donor company for the purposes of distributing Commonwealth funding to facilitate voluntary investment in R&D innovations across the red meat supply chain. The Australian government matches voluntary partner contributions (of up to 50 per cent) through the MDC where eligible projects deliver outcomes that address broader industry and/or government priorities and benefit the entire industry.

5.66 The MLA remains the only industry body eligible to receive matching Commonwealth funds for research from industry levies and funds received from the three declared approved donors. The committee recognises, therefore, that a review of the MOU must encompass the role of the MDC.

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

5.77 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

5.78 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".⁵⁹ 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

59 ACIL Allen Consulting, *Performance Review of Meat and Livestock Australia and the MLA Donor Company*, April 2016, p. 7.

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