

28 June 2018

Mr Philip Moss  
c/o Review into the Department's regulatory capability and capacity  
Department of Agriculture and Water Resources  
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## **Review into the Department's regulatory capability and capacity**

Dear Mr Moss,

I write concerning the **Review into the Department of Agriculture and Water Resources (DAWR) regulatory capability and capacity** that you are completing for the Minister, Hon David Littleproud MP.

The Australian Livestock Exporters' Council (ALEC) is the peak industry body representing Australia's livestock export sector. ALEC is responsible for setting industry policy, providing strategic direction and representing its members at all levels.

Notably our licenced live export members represent over 95 per cent of annually exported cattle (beef and dairy), sheep and goats from Australia, predominantly to South East and North Asian markets and to the greater Middle East and Arabian Gulf.

Our organisation is pleased to provide, at your request, high level observations and inputs into the review process. We also make reference to the submission by the Australian Livestock Export Corporation (LiveCorp), which is the research and development corporation (RDC) for the Australian livestock export industry.

ALEC and LiveCorp have a sound working relationship and we reinforce the demarcation of the respective roles of both organisations.

Prior to this submission, interviews were undertaken by you with both the Chairman of ALEC, Hon. Simon Crean as well as with myself as CEO, along with engagement you have had directly with a number of our leading livestock export organisations.

### **Overview**

ALEC and our respective licensed live export members have regular and on the whole, sound engagement between ourselves, (individually and collectively) with the Department, and in particular the Live Export Branch which oversees the \$1.6 billion trade. We collectively acknowledge this level of access and engagement and direct contact to the right resource inside the Department is necessary to facilitate effective regulatory oversight around shipments or air freight of livestock.

ALEC is on record as appreciating the leadership of the Department, under its Secretary, Mr Daryl Quinlivan, and the attentiveness of senior executives under him to the range of issues and activities that impact or intersect with exporter operations that deliver ~ 3 million head of Australian livestock exports each year (across species of cattle, sheep and goats). At the same time ALEC has welcomed this Review for the opportunity to improve the regulatory function and to provide ongoing confidence, including greater efficiency and transparency in the oversight of our industry sector.

In terms of the Department's regulatory performance, it is ALEC's overriding observation that the Department is tough, but generally fair. When the Department has become aware of animal welfare issues, it has used its regulatory powers to act to avoid these issues being repeated in the future. Regulatory responses have included shutting down entire supply chains (i.e. Vietnam in 2016), compelling exporters to have in place in overseas markets Animal Welfare Officers (i.e. Middle East / Gulf) or implementation of additional measures to prevent leakage (i.e. Vietnam). These have added significantly to export costs, a fact often ignored by detractors of the Department and the trade, but may be warranted to ensure animal welfare outcomes are being met. It must be emphasised that the Department can only act when it has knowledge. Even in Australia, animal welfare issues can go undetected.

Before briefly addressing the Terms of Reference, ALEC provides commentary around **four plus one** areas of reform and public policy that directly relates to the manner and importance of industry's engagement with the Federal Department and its regulatory function.

### **Approved Arrangements**

Approved Arrangements (AA) were formally introduced from 1 January 2017 and concluded a preceding period of significant engagement between the regulator, individual livestock exporters, LiveCorp and the national industry body in ALEC. An Approved Arrangement is an agreement between DAWR and a livestock exporter that allows for a streamlined export certification process. ALEC would like to inform the Review that the development and introduction of AA has been embraced by both industry and regulator and demonstrates a sound outcome around collaborative actions to improve our trade's governance and level of sustained operations.

### **Livestock Global Assurance Program (LGAP)**

LGAP is a global conformity assessment program for livestock exports that further protects the welfare of animals, promotes best practice and fosters continual improvement. The LGAP Quality Assurance system will ensure that the industry delivers on what its members, our government and the Australian people want in terms of animal welfare and livestock management. It is independent, transparent and reflects increased accountability. Importantly we see LGAP as a vital and major step change in the future sustainability for our trade.

The Australian Government has committed to funding the initial planning, rollout and subsequent evolution of LGAP over its first four years of operation through an \$8.3 million funding commitment. LiveCorp on behalf of industry has facilitated the first funding tranche, and as at time of writing overseen the development of the company including its registration, a finalised Constitution, inaugural Directors and structure. An Implementation Plan has been constructed and is being enacted that will see LGAP rolled out in its first overseas market from mid-2019.

LGAP has been close to five years in development and should be seen by this Review as a critical reform initiative, strongly supported by the Australian Government, the Department, industry, key stakeholders, along with in-principle support from a number of international markets. ALEC wishes

to advise the Review that DAWR officials have worked at many levels with industry as we have sought to evolve and present the current, robust final proposal and implementation plan to Government to acceptance. This included DAWR playing an advisory role on the LGAP Industry Steering Committee (LISC) which helped deliver LGAP in a form that may enable the Australian Government to support its development, including proposed governance and operational structures.

Our industry believes the introduction of LGAP is critical to advance one of the key aspirations of this Review - to best address and enhance culture, capability and performance of DAWR as a regulator of the livestock export trade. The proposed rollout of LGAP and its interrelationship with the Department, which will directly regulate the LGAP company moving forward, should be an important part of the Review's assessment around DAWR's future regulatory performance and approach to the trade. The Program is a global-leading initiative for enhanced outcomes in livestock management and animal welfare within supply chains, but critically allows DAWR to directly regulate the LGAP company and its monitoring and oversight of facilities and supply chains. We firmly believe this will create and stimulate an environment for best-practice outcomes.

ALEC has provided some additional information on LGAP in supplied attachments.

### **Inspector General for the Welfare of Exported Animals**

In discussions with ALEC you indicated interest in the concept of establishing inside the Department a future Inspector General for the Welfare of Exported Animals.

In April 2018 ALEC took the public lead and outlined its member-endorsed position to support its establishment of the Inspector General position. This was a well thought through and serious recommendation by industry to better support the Department, and in effect, support an environment for its greater focus on its capability, capacity and outcomes as a regulator.

The Inspector General operating inside the Department could provide additional (and deemed necessary by many) necessary transparency of the activities of the Department's regulatory functions around the livestock export trade.

ALEC believes an Inspector General for the Welfare of Exported Animals, if introduced, would support the betterment and continuous improvement of animal welfare standards in livestock exports including supporting sustainable trade outcomes for Australian industry.

Our proposal is that the IG's activity could be an extension to a current Departmental role; for example the Inspector General for Biosecurity (with respect to managing current Department resources). This would allow the new activities to be implemented seamlessly and quickly if backed by Government. However, similarly, the role could be introduced as a stand-alone position within the Department.

Whether integrated or not into an existing IG arrangement inside DAWR, ALEC believes the role could help oversee independence and cultural change in the livestock export industry, as well as help embed sustainable, top-quartile animal welfare practices, whilst supporting a better regulatory framework. The role of the Inspector General could provide a critical mechanism to help improve the efficiencies and practices of the regulatory functions of the Department around livestock exports. We also believe it is an acceptable public policy proposal amongst many industry stakeholders.

ALEC notes not all agri-political or advocacy bodies share the same enthusiasm for the concept, but our organisation, in the interests of improving the functionality and performance of the regulatory

arrangements around Australia's livestock export trade, strongly believes it should be considered. This is particularly the case given both critics and advocates of the trade have called for greater independent oversight and transparency of our trade.

Should the Review seek to endorse the Inspector General function within DAWR around the welfare of exported animals, as per ALEC's policy position, both the Chairs of ALEC and the Red Meat Advisory Council (RMAC) could provide initial advice to identify areas from the Inspector General's perspective where the livestock export trade can be better directed.

### **Market Access**

Outside of the Live Export Branch, ALEC engages regularly with DAWR's Market Access Branch and Agricultural Counsellors in overseas markets. On the whole these dealings have been constructive and work to seek to provide guidance and support to improve market access for Australian livestock exports.

ALEC believes that DAWR continues to have an important role to work with DFAT and arms of the Australian Government, including Austrade, in promoting greater market access opportunities and support Australia's red meat exports grow beyond \$18 billion per annum. If anything ALEC would like to see the Review emphasise the need for greater coordination and demonstration of the work DAWR officials are undertaking, alongside other Australian government and industry representatives in-market, to support overall improved market access opportunities.

### **Financing of DAWR Live Export Branch / Program (LAE)**

A further specific area to highlight is the current financial charges and modelling of charges for licensed livestock exporters in the operation of the Live Animal Export (LAE) program. What presently costs around \$8.85 million a year to administer, has continued to operate in an annual deficit, and yet also carries a closing cost recovery reserve balance approaching (\$14 million) in deficit.

During the LAEFICC process earlier this year, ALEC representing industry again participated in good faith. Yet it has remained a level of consternation for industry that the LAE's current level of debt and the inability for the Departmental branch to not operate in yearly surplus. In fact it is viewed with serious concern amongst our exporter members. For it is these exporters whom are reliant on an efficient and effective program delivery.

The financial management of the LAE program needs to be addressed in the Moss Review as part of its performance. Industry continues to argue that it is not simply the best outcome to increase charges, nor have exporters carry the bulk of charges or higher increase in charges, in any future, necessary reform. The introduction of LGAP we believe is viewed by both the Department and industry, as one approach to help address the financial situation surrounding the LAE Program.

A lack of contestability for the Department to deliver efficiency upsides, improve service levels and increase customer satisfaction to those utilising services in the LAE Program is restricting an ability to better address these financial issues surrounding the Program.

### **Addressing Terms of Reference**

ALEC has provided a series of dot point responses, including examples, where relevant.

**The regulatory powers available to the Department to ensure compliance with the Australian Standards for the Export of Livestock (ASEL) and animal welfare standards, how effective those powers are to ensure compliance by the live animal exports industry, and how effectively the department uses those powers.**

- The availability of regulatory powers for the Department (DAWR) to ensure compliance are already significant for ASEL and animal welfare standards.
- The effectiveness of utilising those powers to ensure compliance by the livestock export industry and how effective DAWR utilises those powers could be more consistently applied.
- ALEC exporter members and exporters have over recent years, and in particular since 2016, generated greater numbers of self reports, in efforts to both improve and demonstrate compliance to ASEL and ESCAS. Our industry body seeks to indicate that self-reporting in itself is not a sign of poor practices, but rather encourages good governance and is good business practice to support continuous improvement. The Review could consider how self-reporting, in the interests of good governance and improved performance for the livestock export sector, could be better reflected in future Departmental responses and communication, for the betterment of animal welfare and overall transparency.
- The role of the LGAP company should be considered in terms of validation of the process and the actions taken.
- ALEC is aware of stakeholder feedback that DAWR's use of its powers is sometimes questioned on the basis of the applied response to the issue or consistency in its application to a situation.
- ALEC supports transparency, consistency in decision making and commensurate strength of the decisions made by the regulator surrounding our industry.

**How the Department assesses and determines regulatory conditions appropriate to achieve ASEL and animal welfare standards, and how those conditions are communicated and enforcement of them verified and measured.**

- General communication by the Department to our exporter members and to ALEC is considered consistent. The clarity, transparency and distribution around Live Animal Export Advisory Notices (EAN) is noted. ALEC on the whole believes accessibility to DAWR officers and general dialogue between DAWR officials is at a level that provides for a constructive working relationship between regulator and industry.
- An area of feedback was communication of the McCarthy Review outcomes and Federal Government's response in May 2018. ALEC and industry was treated like all other stakeholders in what were announcements of great significance to the trade. Whilst understanding the rationale of the approach (and political interest in the announcement) to treat all stakeholders equally, the high-level detail around the announcement negated timely specific communication to industry of relevant detail. It is to be hoped this is redressed in future major announcements around the livestock export trade. ALEC's point is that core detail, relevant to exporters, but not necessarily to broader stakeholders, was not emphasised at the expedience of meeting a wider communication need. The point is

emphasised around the example of the introduction of Independent Observers (IO) onto sheep and subsequently extended to live cattle vessels.

- Regarding IOs. At the time of announcement back in May, there was little detail to their practical application and role on-board vessels (such as responsibility for indemnity insurance, chain of command, sourcing and skill-set, reporting mechanisms and how it will expand into cattle shipments). This created consternation for the trade. ALEC notes however the application and role of an IO has subsequently been communicated to each individual exporter as part of receipt of their Export Permit. Industry still has many questions around the capability, level of expertise and mind-set of future IO's on board future live sheep and live cattle journeys.
- ALEC has and continues to support the introduction of Independent Observers overseeing livestock shipments from Australia.

### **The process for investigating reportable mortality events and complaints received about industry compliance with the ASEL and animal welfare standards.**

- ALEC is pleased to advise the Review that industry has increased levels of self-reporting against compliance with ASEL, ESCAS and animal welfare standards. This has particularly been the case since mid-2016, following animal welfare incidents in Vietnam. ALEC wishes to reiterate that our exporter members self-reporting should not be seen as a sign of non-compliance, but rather demonstrative of a proactive approach for self-improvement by industry and a greater, collective outcome for animal welfare. It is to be hoped the Review could consider a means of better defining quantitative numbers of reports against improved governance, compliance and animal welfare outcomes being sought.
- The process of investigating reportable mortality and animal welfare events and complaints has been acknowledged by affected exporters as intensive and very resource-consuming during the investigation process. Whilst accepted, this level of angst is increased when third-parties have brought on an investigation (such as activists).
- For example, in our industry report provided to the Department, being the LGAP Industry Steering Committee (LISC Report) into LGAP, *LGAP Report on the Implementation of LGAP (September 2017)*, the cross industry report highlighted a key point around the level of resources (including staff time) spent in ESCAS administration and investigating ESCAS incidents. This included elements of staff time being multiplied by staff costs to derive an estimate of the costs to the exporter involved in ESCAS administration and investigating ESCAS incidents. Also provided were costs spent on contracting outside services for ESCAS administration or investigating ESCAS incidents. Industry's point is that costs become significant in the reporting environment and could in fact run counter against a culture of greater self-reporting over time. It is hoped this conundrum could be considered by the Review of an improved, streamlining arrangement around self-reporting and its impact.
- The length of time (or perceived long-period) between reportable mortality event and/or complaints received and the overall response by the regulator is an area of both industry concern and that of many of our stakeholders. The length of time between the reportable event and the regulator's report has an impact on industry social licence and individual export operations. Months can transpire between event and report, which goes to the question of the Department's capability and capacity.
- The Review should consider if the average time-length of investigation is not counter-productive to effective regulation and maintenance of industry social licence in the interim.

- Industry believes the introduction of the LGAP company and its operations and/or the role of an Inspector General could assist in streamlining processes around reportable events, and provide greater management of, and transparency in, the information gathering process and in the progress of investigations.
- The capability of the new LGAP company will be observed to emerge as its operations commence and future reportable events transpire.

**The effectiveness of reporting obligations under relevant legislation.**

- ALEC's work through the LGAP LISC process found examples of a perceived high cost of compliance around obligations to relevant legislation. As attached the LISC Report is provided as a detailed reporting document and resource, to support the Review.
- Industry firmly believes the introduction and bedding in of LGAP during the upcoming 2019FY will in time assist both exporters and the regulator in the streamlining of core aspects of the implementation of ESCAS, moving industry towards more efficient and highly compliant facilities and less costs on exporters.

**Appropriate structures within the Department to ensure regulatory responsibilities are met, including whether an Inspector-General of Livestock Exports would provide superior oversight of the regulator.**

- As outlined, ALEC supports the introduction of an Inspector-General of Livestock Exports within the Department provide superior oversight. ALEC has titled the I-G role as Inspector General for the Welfare of Exported Animals.
- ALEC urges the Review to strongly consider the merits of this public policy proposal.

**The development and maintenance within the Department of an effective regulatory culture that delivers on animal welfare standards and the ASEL and in doing so supports a sustainable live animal exports industry.**

- It is a considered statement of many in our industry that we look towards having a strong, consistent regulator. We believe that the establishment of the Livestock Global Assurance Program (LGAP) can play a major role in supporting this aspiration.
- The independent oversight provided by an Inspector General for the Welfare of Exported Animals, can similarly support a culture that helps deliver high animal welfare standards.
- ALEC has been a strong supporter and advocate for the review of ASEL and has already made a significant contribution to Stage 1 of the Review. With subsequent Stages to specifically focus on remaining aspects of ASEL, and the prioritisation around reforms for a more sustainable basis for the live sheep trade to the Middle East, ALEC will soon be making a substantive contribution to this.

**The requisite skills, capabilities and systems for regulating the live animal export trade, as well as any improvements to support Departmental officers in their regulatory capacity.**

- ALEC, on behalf of industry, gratefully respects the high levels of experience and expertise that exist across and inside DAWR.

- Industry's feedback is around the consistency of level of commercial and operational understanding of the live export industry and its many iterations amongst Departmental personnel. There has been a long-held belief that the regulator should and must have a greater depth of knowledge around our sector.
- Limited levels of experienced DAWR personnel having worked or being directly exposed to live exports, and know-how within DAWR around the functional operation and complexity of live export operations, we believe is impacting DAWR's full-effectiveness as a regulator and administrative organisation. There are few notable examples of senior DAWR personnel whom have worked directly within, or in close proximity with live export operations, outside of regulatory functions.
- When compared to examples such as the Civil Aviation Safety Authority (CASA) where there has historically been a strong cross over between experienced personnel having worked in both a commercial and regulatory capacity, this is not reflected between personnel movements within DAWR and those inside the live export trade.
- One clear example is with veterinarians, in particular working knowledge of long-haul vets, within the Department, which is a specific working skillset of those in the livestock export industry. It is understood there are few AAV (long haul vets) inside DAWR.
- It is to be hoped the Review can stimulate decision making around pathways for skilled workers to improve breadth of understanding between the regulatory and commercial functions of the livestock export trade.
- A further insight for the Review with DAWR's take-up of digital technology in management and regulatory oversight of the trade. DAWR's shift towards greater digitisation of processes and reporting is supported by industry, to reduce costs and improve efficiency, transparency and oversight of our trade. It is hoped this transition can be hastened in coming years.

**The effectiveness of the Department's interaction with relevant State and Territory authorities (and applicable State and Territory legislation) as well as improvements to ensure the best level of Commonwealth/State and Territory cooperation can be achieved.**

- It is an overarching observation of ALEC that DAWR's interaction with authorities at State and Territory level is constructive. There are numerous cross overs between State and Federal legislation and regulation of the trade, and industry, like DAWR, supports improved streamlining and recognition that livestock exports is a federally regulated sector.
- ALEC observes that some State and Territory authorities are seeking to unnecessarily disrupt and add compliance costs to the conduct of livestock exports. This includes in the areas of animal welfare regulations for exported animals. On the other hand there are areas of State regulatory responsibility that are not being thoroughly executed. An example is NLIS compliance as 'non-compliance' can severely jeopardise Australia's export trade.
- The regulator should be in a position to apply resources on improving national alignment on key practices in the sector – such as establishing a national (not state/territory) approach to pregnancy testing of livestock for export.
- The less than satisfactory performance of the National Arbovirus Monitoring Program (NAMPP) when Agriculture Victoria intervened in October 2016 to seek to address an alleged bluetongue virus (BTV) outbreak, impacted the livestock export trade in southern Australia by tens of millions of dollars, and left the federal regulator, without recourse to address an immediate shut-down of cattle exports from northern Victoria. ALEC is happy to expand on the example, but it highlighted the difficulties between the interface between federal and



state authorities around managing, and the implications of decisions made on disease management.

- As noted there are also areas such as NLIS where there can be improved alignment between Federal and State authorities, but to enable the federal regulator to have a strengthened position to manage and have oversight over the livestock trade. DAWR has made constructive contributions through SAFEMEAT Partners in this regard.

**The ability of the Department to assess community expectations and its cultural capacity to respond, including the manner in which the Department engages with key stakeholders, including the live animal exports industry and supply chain, animal welfare organisations, other regulators, community stakeholders and international trading partners and governments.**

- DAWR has historically engaged effectively with ALEC, its livestock export members and the wider trade. ALEC wishes to request a more formalised round-table approach to address short-medium-longer term issues and to have DAWR work closer with industry to understand its strategic planning and outlook.
- This could include greater understanding around industry's future outlook and volume projections, market-access priorities and address specific issues and areas of redress.
- Whilst the regulator is well informed of the trade's activities, its understanding could be deeper. DAWR's involvement and input into the LGAP Industry Steering Committee (LISC) process was a good example where the Department's priorities and actions were well assessed and integrated into industry's desired response to creating the final LGAP proposition for Government's consideration.

#### **Attachments**

The ALEC Secretariat can provide additional material at request.

Attached is:

- **LGAP Industry Steering Committee (LISC) Report – 2017**
- **Industry brochure on LGAP**
- **ALEC Stage 1 Submission – ASEL Review**

I can be contacted on 0401 994 627 or [ceo@livexcouncil.com.au](mailto:ceo@livexcouncil.com.au) should further information or lines of enquiry be required.

Yours sincerely,



**Simon Westaway - Chief Executive Officer**