



AUSTRALIAN LIVESTOCK  
EXPORTERS COUNCIL

8 January 2021

Ann McDonald  
Department of Agriculture, Water and the Environment  
GPO Box 858  
Canberra ACT 2601

By email: [exportlegislation@agriculture.gov.au](mailto:exportlegislation@agriculture.gov.au)

Dear Ms McDonald

**Re: Exposure Draft Export Control (Animals) Rules 2020**

The Australian Livestock Exporters' Council (ALEC) is a member-based, peak industry body representing Australia's livestock export sector which contributes over \$1 billion in export earnings annually while employing 13,000 mainly regional Australians. ALEC provides strategic direction to the industry, sets industry policy and represents Australia's livestock export trade in Australia and internationally.

ALEC members account for more than 96 per cent of Australia's annual livestock exports, by volume and value. ALEC's membership also extends to supply chain participants including registered premise operators, ship owners, feed suppliers and other service providers to the trade. As an export industry, ALEC appreciates the opportunity provided by the Department of Agriculture, Water and the Environment (DAWE) to comment on the *Exposure Draft Export Control (Animals) Rules 2020* (the Rules) provisions.

As a sector, the livestock export industry is one of the few in agriculture that is 100 percent exposed to the export market, and therefore 100 percent exposed to its regulation. The livestock export industry runs on incredibly tight margins and exporters bear considerable financial risk with each shipment. Consequently, poor, unfair and unnecessary regulatory outcomes only heighten that financial risk which may be an inhibitor to trade.

ALEC fully supports the submissions made by the Australian Livestock Export Corporation (LiveCorp) and AniMark to this consultation process. LiveCorp, the Australian livestock export industry's service provider and research body, have substantial technical expertise in export processes and the associated regulatory framework. AniMark is an independent company established by industry to deliver the Livestock Global Assurance Program (LGAP), promoting the humane and ethical treatment of livestock by providing an effective, direct and efficient mechanism to assist in the monitoring of animal welfare and management outcomes through the supply chain. It is critical that the concerns and recommendations for improvements and refinements identified by LiveCorp and AniMark through this process are afforded the greatest consideration by DAWE. As this will ensure unintentional consequences are avoided, where possible, and the resulting legislative framework is contemporary, efficient and effective.

As raised in ALEC's submission to the Export Control (Animals) Rules 2020 Consultation Draft (the Consultation Draft), we remain concerned with the significant increase in regulatory burden resulting from meeting the new requirements contained in the Rules. In all cases, the proposed increase in regulatory burden will deliver little or no discernible benefit. Such an approach does not reflect the critical importance of the industry to the broader livestock production sector, an industry that was valued at \$1.8 billion in 2018-19, representing approximately 10% of all red meat export receipts.

ALEC is also concerned commentary from DAWE regarding this consultation process, promulgating a view that substantive changes will not be considered due to the tight timeframes. This consultation process is of critical importance to the ongoing regulatory footprint imposed on the livestock export industry. It is therefore imperative that industry concerns raised and submitted during this process are given due consideration and amendments are made where necessary, irrespective of timeframes or deadlines.

DAWE addressed many of the issues raised in ALEC's submission to the Consultation Draft by providing further clarification in the response letter. However, corresponding changes to provide these clarifications in the Rules were not made. This is somewhat perplexing and self-defeating because:

1. It highlights that further clarification can easily address many of the issues raised.
2. *Notes* have been used effectively throughout the Rules to provide the further clarification needed to convey an appropriate and shared understanding. Extending this to address the issues raised in ALEC's submission, and addressed by DAWE in the response letter, would greatly assist those regulated by the Rules.

Where relevant, these issues have again been identified in the specific comments below. DAWE's response letter also outlined that the purpose of changing the current export legislation was because it needed *"....to be modernised to ensure Australia can continue to meet the changing importing country requirements, to support greater innovation in export industries, to improve readability and to minimise barriers to trade."* To support these objectives, as outlined in DAWE's letter, ALEC has reviewed the Exposure Draft document and considered DAWE's responses to ALEC's previous submission to provide the following comments:

## **Chapter 1 - Preliminary**

### **Part 2 – Interpretation**

#### *1-6 Definitions – Export supply chain assurance operations*

- Conducting a third-party conformity assessment program needs to be included as part of this definition. In addition to conducting audits, export supply chain assurance operations (ESCAO) will conduct a third-party conformity assessment program which includes certification and monitoring and managing the corrective actions taken to address identified nonconformities.

#### *1-6 Definitions – Independent qualified mechanical engineer*

- Definition includes the requirement for the person to be accredited by NATA, or similar. NATA does not accredit people; it accredits laboratories and technical facilities.

#### *1-6 Definitions – Livestock*

- The issue of not including pigs and horses as prescribed livestock has been previously raised and responded to by DAWE. However, to identify alpacas as prescribed livestock and pigs and horses as akin to companion animals is inconsistent at best. Pigs and horses, like other prescribed livestock, have well-established commercial industries, national identification systems, nationally coordinated biosecurity arrangements, well developed R&D including national levy collection, etc. Camelids do not. Stating that DAWE's policy has not changed is unhelpful, particularly considering this is a process to review and modernise legislation and associated policy.

#### *1-6 Definitions – OIE recommendations*

- It is unclear why this definition limits reference to Section 7 of the Terrestrial Animal Health Code. If a goal of the Rules is to continue to meet changing importing country requirements, then ensuring importing country requirements are consistent with Chapter 5 of the OIE Code would be fundamental to this.

## **Chapter 2 – Exporting goods**

### **Part 3 – Government certificates**

#### *2-13 Application of this Division*

- As previously raised, it is unclear what this Part relates to. To improve readability, a Note clarifying this Part relates to ‘health certificates’, would be very useful to the users of these Rules. Alternatively, the term could be included in definitions and addressed there.

#### *2-17 Return of government certificate*

- This section needs to include returning of government certificates if an error is found or a change is required, and a new certificate has to be issued to ensure the consignment will be accepted by the importing country authority.

#### *2-20 Application for new government certificate if original government certificate is revoked*

- As previously raised, clarification is required as to why a certificate is revoked. A Note referencing Section 75 of the Act, that identifies these circumstances, would greatly assist users of the Rules.

## **Chapter 4 – Registered establishments**

### **Part 1 – Application of this Chapter**

#### *4-1 Application of this Chapter*

- Clarification via a Note is required to explain that the registration applies to the establishment and the occupier is the person in whose name the establishment is registered. Also, Section 147 of the Act sets out what to do if a person ceases to be an occupier.
- A reference is needed adding that the occupier is responsible for registration and other matters. This is currently unclear as DAWE currently requires exporters to include compliance with the registration requirements of Registered Premises (RPs) in their approved arrangements.

### **Part 3 - Conditions of registration**

#### *4-8 Compliance with operations manual*

- S4-8 (2) should include that this does not apply if it inadvertently poses a threat to animal welfare or is inconsistent with the importing country requirements, consistent with s 4-12, 4-13 and 4-14.

## **Chapter 5 – Approved arrangements**

### **Part 2 - Approved arrangements for exporter supply chain assurance operations**

- Presumably, this Part relates to a third party’s operations in market to carry out functions consistent with ESCAS requirements, AniMark for example. Clarification on this is required.
- This section appears to be attempting to ‘shoe-horn’ third party providers of regulatory services into a framework established for export supply chain participants, where it would be more appropriate to consider these third parties as akin to assessors, as described in s12 of the Act. It is an ill-considered approach that provides for DAWE to ‘micro-manage’ the holder (no doubt on a fee-for-service basis) which will add significant time, cost and resources to the whole process for no benefit. For example, having to apply to DAWE to vary their ‘approved arrangement’ when there is a staff change or to add or remove a country (s5-22) is ridiculous.

#### *5-10 Requirements relating to the applicant*

- This section as drafted has the potential to capture the founding members of AniMark, such as ALEC, and requires revision.

#### *5-17 Information must be given to the Secretary about entities in relation to which exporter supply chain assurance operations have been carried out*

- Expecting the holder to respond in 1 business day is ridiculous and inconsistent with all other expectations outlined here and elsewhere in relation to response times. Particularly as this relates to information and documents only. Compare this with:
  - ASEL 3.0 requiring mortalities to be reported in 5 days (a far more urgent issue); or
  - An 'approved ESCAS' requiring an exporter to provide DAWE with a report within 10 working days of receiving the notice in relation to any of the live-stock to which the ESCAS applies; or
  - An 'approved ESCAS' requiring the exporter to notify DAWE in writing within five working days of becoming aware, or receiving information that suggests, that:
    - a) an animal or animals exported to the supply chain(s) have or may have been transported to locations other than those specified in the ESCAS;
    - b) the location of an individual animal or animals exported to the supply chain(s) is not able, or may not be able to be verified by the exporter in accordance with the animal traceability and tracking system specified in the ESCAS; or
    - c) the animal welfare standards provided for in the ESCAS have not, or may not have, been met in relation to an individual animal or animals exported to the supply chain(s).
- As drafted s5-17 gives the Secretary unfettered access to any information on 1 days' notice. Defined criteria is needed to guide the Secretary's discretion as to what circumstances should exist before such a request can be made. This section, while undermining the independence of a Third-party provider of assurance (TPPA), could be seen by foreign governments as the Australian government encroaching on their sovereignty.
- There must be reasonable constraints on the Secretary's discretion to require disclosure of information collected by the TPPA.

#### *5-19 Publication of information on holder's website*

- The purpose of this section requires clarification. If it is to promote transparency of the activities of the holder, then it goes far beyond providing transparency, especially in s5-19 (2), which is effectively requiring the holder to publish operational details of activities identified back to individual exporters. This will become a privacy issue and very easily a barrier to trade.
- If information must be published, more detail on what the information required to be published is needed. Processes for checking and confirming the veracity of the information need to be defined, as do processes for challenging the information and having third party adjudication. As currently written, this section provides DAWE the ability to demand the publication of whatever information it sees fit, without any checks or balances in place, and is therefore opposed and must be revised or removed.

#### *Division 3 — Renewal of approved arrangement*

- It is unclear why renewal of an approved arrangement is required, other than to add further unnecessary cost. Approved processes and systems should remain approved until the Secretary decides otherwise. This again highlights that seeking to shoehorn a third-party provider of regulatory services into a framework established for export supply chain participants is ill-conceived.

#### *5-22 Significant variations*

- The focus should be on the systems and processes applied by the holder, ensuring they deliver the required outcomes. Focusing on issues such as personnel changes and countries of operation is non-sensical and adds cost for no good reason.

### 5-23 Other grounds for suspension

- There are a number of irregularities and illogical statements in this section:
  - (b) - there has been a significant change to the assurance rules or assurance standards provided by the approved arrangement. However, s5-16 states that the holder must operate by the rules and standards and must review them regularly. Then s5-22 states that any variation to the rules and standards (other than a minor one) requires a variation to the approved arrangement, i.e. a change to the rules and standards only becomes a change once approved by DAWE. Therefore, how can you have a change without it being an approved change?
  - (c) - there has been a significant change to the monitoring system implemented in accordance with the approved arrangement. This section lacks definition and creates risk of misuse. What is meant by 'monitoring system' and significant change to it?
  - (f) - carrying out export operations in accordance with the approved arrangement does not achieve public confidence in the exporter supply chain assurance system. Introducing the concept of 'public confidence' into legislative rules as a measure of performance is unacceptable. Who is 'the public', how will it be measured without it being subjective and what are the levels of acceptance? This is, in effect, trying to politicise legislation and must be removed.

### 5-24 Other grounds of revocation

- As per s5-23 above.

## **Chapter 6 – Livestock export licences**

### **Part 1 - Requirements for grant of livestock export licence**

#### 6-1 Other requirements for grant of livestock export licence

- S6-1 (3) needs to include "...as determined by..." so the livestock industry understands who is making decisions on their behalf on what is considered contrary to the interests of the livestock industry.

### **Part 2 - Conditions of livestock export licence**

#### 6-6 Holder of licence must have, and comply with, an approved ESCAS

- S6-6(b) should refer to an 'approved ESCAS'.

#### Division 3—Exports of cattle to the Republic of Korea

- The requirements of this section are addressed in detail in other legislative tools, including the *Australian Meat and Livestock Industry (Live Cattle Exports to Republic of Korea) Order 2002*. Enshrining country-specific requirements in the Rules is non-sensical and must be removed, because:
  - Country-specific requirements are already addressed in greater detail in other legislation.
  - Repeating and summarising the requirements can lead to misinterpretation and conflicting requirements.
  - Any amendments to the requirements by the importing country can result in unnecessary delay, conflict and misinterpretation.
  - It makes unnecessarily burdensome to amend any importing country requirements. This was highlighted in relation to similar comments previously provided by ALEC to the Consultation Draft in relation to the proposed rule not aligning with the health protocol agreed by Australia and the Kingdom of Saudi Arabia. This error required an amendment to the draft Rules. Therefore, rather than modernising the legislation to enable Australia to better meet importing country requirements (a goal set by DAWE), country specific requirements are being included in the Rules, restricting the flexibility required to meet changing requirements and, effectively, creating a barrier to trade.

- The ramifications of country-by-country regulation must be more thoroughly considered by DAWE as it sets a poor precedent, is inconsistent with other export markets and increases the already significant difficulties associated opening trade in new markets.
- These requirements require flexibility and should not be elevated to the draft Rules. They are of an operational nature, therefore, operational policy and approved arrangement frameworks should be used to identify and manage the certification and assurance provisions for livestock exports, rather than setting an unnecessary and unusual precedent by including them in the draft Rules.

#### *Division 4—Exports of sheep by sea to Middle East*

- Refer above.

#### *Division 5—Exports of sheep, goats and cattle to Kingdom of Saudi Arabia*

- Refer above.

### **Part 9 – Exporter supply chain assurance systems**

- It is important that the Rules clearly define the point where DAWE’s regulatory oversight of ESCAS under this Part and the day-to-day oversight of ESCAS by a Third-party provider of assurance (TPPA) (such as AniMark) (under Part 2 of Chapter 5) meet.
- This is the cornerstone of the LGAP framework, and it must be enshrined in legislation – not, simply, EANs or guidelines which can be changed at any time by the Secretary. An appropriate meeting point or separation is for the Rules to provide that exporters who use an approved arrangement for ESCAO are deemed to have met their ESCAS obligations. Correspondingly, thresholds which when triggered initiate DAWE's intervention in a TPPA's processes should also be defined.
- This aligns with other regulatory schemes that have established independent QA service providers and underpin reliance on those services through statutory exemptions and/ provision for deemed compliance with statutory obligations.
- Entrenching deemed compliance in the Rules does not diminish DAWE's regulatory oversight of ESCAS. By allowing LGAP to function properly, DAWE will have enhanced capacity to ensure compliance with ESCAS through ready access to evidence.
- Entrenching deemed compliance in the Rules will guard against duplicative/parallel compliance structures and maximise the benefits of the framework as a whole.
- Intervention by DAWE (beyond normal audit processes within an approved arrangement system) should be limited to well-defined circumstances involving material or serious issues.

#### *6-32 Exporter supply chain assurance system (ESCAS)*

- This section is confusing as (1) describes a system, but then (2), (3) and (4) describe a document to be approved by the Secretary. Is this section referring to ‘ESCAS’ or an ‘approved ESCAS’ (as defined in the definitions and noting that (2) requires an approval)?
- Other issues:
  - There is currently no approved form as specified in (2);
  - No current approvals relate to ports or landing places as specified in (3);
  - Current approvals also do not include (b), (c) – other than stun/non stun, (g) or (h) of s(4).
  - This lack of clarity is potentially a significant barrier to the industry’s ability to deliver improved animal welfare in market and raises the issue of whether DAWE is trying to surreptitiously introduce new requirements on industry.

#### *6-33 Holder of livestock export licence must give ESCAS to Secretary*

- This section adds further confusion as:
  - Why do exporters have to give a document approved by the Secretary to the Secretary?

- It appears to now be defining ESCAS as what is broadly known as a Notice of Intention (NOI) unless DAWE is introducing another new concept?
- It appears to be introducing the concept of a NOI having to be submitted 10 working days before quarantine or isolation begins (a new concept as NOIs have always been submitted 10 working days before export).
- It refers to importing country requirements specifying a port or landing place. This is not currently included in importing country requirements (refer MICOR) and would require the renegotiation of all import protocols to comply with this requirement.
- For further clarity, the Rules are currently using the term 'ESCAS' interchangeably to define the system implemented by exporters to deliver and assure good animal welfare in market, an approval given by the Secretary in relation to supply chains, and a NOI. The confusion stems from:
  - The 'system' is a generically defined system applied to all markets at all times for feeder and slaughter livestock. The approval relates to a specific supply chain for a specific species in a specific market. A NOI relates to a specific shipment of a specific species to a specific importer.

#### *6-34 Secretary may approve ESCAS*

- As identified above, it would be impossible for the Secretary to approve an ESCAS (system, approval or NOI?) given the requirements of s6-33. This would be a significant barrier to trade.

#### *6-36 Holder of approved ESCAS may apply to Secretary to vary ESCAS or conditions of ESCAS*

- Noting that the Rules are confuse what an 'ESCAS' is (a system, an approval given by the Secretary or a NOI?), s(1) refers to an 'approved ESCAS' which, by definition, is an approval given by the Secretary. However, this section relates (in part) to 6-33, which relates to a NOI, emphatically failing in the intention of 'improving readability and to minimising barriers to trade.'
- This confusion will also lead to misinterpretation, misinformation, conflict and unnecessary delay.

#### *6-39 Secretary may revoke approved ESCAS*

- As for s6-36
- Also s(4) removes the right of a holder to natural justice and the ability to query/challenge the Secretary's beliefs in relation to the reasons for revoking a license. This is unfair and unreasonable.

#### *6-40 Holder of approved ESCAS must notify Secretary of change in circumstance*

- As with the rest of this section relating to ESCAS / approved ESCAS, clear definition of what is meant by 'ESCAS' is required to remove any confusion and risk of misinterpretation, misinformation, conflict or unnecessary delay.
- It is also worth noting that any change to the approval for exporting requires notification to DAWE within 5 working days, yet s5-17 only allows for 1 working day to respond to a request for information by DAWE, which is completely unreasonable.

## **Chapter 7 – Export permits**

### **Part 2 – Variations, suspensions and revocation of export permit**

#### *7-7 Other circumstances in which export permit may be revoked*

- S7-7 2(a) states that the Secretary can revoke an export permit if the health, welfare or condition of the livestock deteriorate during the journey. However, as the approval to export has already been given by DAWE, then the livestock were prepared compliant with ASEL. If there is concern that the health, welfare or condition of the livestock will deteriorate, then presumably this is as a result of non-compliance with ASEL. Non-compliance with ASEL should therefore be the rationale for revoking the permit, not a concern that something might happen. As currently written, this section also suggests DAWE has no faith in ASEL and requires an additional overarching right to make a decision based purely

on concern that something might happen, rather than basing decisions on evidence (such as non-compliance with ASEL).

## **Chapter 8 — Other matters relating to export**

### **Part 1 — Notices of intention to export**

#### *8-3 When notice of intention to export must be given*

- As identified in s6-33 (above), s(1)(a)(i) introduces the concept of a NOI being given to DAWE at least 10 working days before quarantine or isolation begins. If this is DAWE's expectation, then the issue raised in relation to s8-4 below must be considered.

#### *8-4 Changes requiring additional or corrected information*

- This section identifies that all information in a NOI is prescribed and that a person may be liable to a civil penalty if the information is not given. As this information is submitted electronically and cannot be submitted for consideration until all information is entered, it must be assumed that this also relates to the provision of incorrect information or information that needs updating. This is contradictory to the accepted purpose of a NOI – an approximation of an export consignment and the concept of an approved arrangement – to streamline the certification process.
- It unreasonable to expect provision of accurate information 10 working days prior to quarantine entry or export. Consignment details change continuously up to its departure. Further, it is expected and considered good practice to (for example) remove sick or injured animals from a consignment prior to export. Therefore, the expectation for exporters to provide accurate consignment information 10 working days prior to quarantine entry or export is fanciful and completely at odds with good animal welfare practices. It could also result in unfair and inconsistent application of legislation and be prone to abuse.
- A timeframe for providing additional or corrected information must be included and must meet the test of being fair and reasonable. Otherwise, these Rules will drive a focus on making sure the paperwork is correct rather than encouraging good animal welfare practices.

### **Part 2—Pre-export approvals**

#### *8-5 Approval of premises for pre export quarantine or isolation*

- S8-5(8)(b) identifies that if the Secretary believes the importing country requirements relating to pre-export quarantine will not be met, a new NOI can be requested. Presumably, in such a scenario, the Secretary will have already approved a NOI with livestock spending time in quarantine. This request for a new NOI will therefore not be able to take place within 10 working days of quarantine / export.
- The Secretary 'believes' used in s8-5(8) is subjective and open to misinterpretation and abuse. This section should be revised to remove subjectivity.

#### *8-6 Pre export approval of consignment of prescribed livestock*

- S8-6(3)(d) identifies that pre-export approval can be given if the Secretary is satisfied the arrangement for the transport of the livestock to their final overseas destination is appropriate to ensure their health and welfare. In terms of feeder and slaughter livestock, making this a requirement of pre-export approval is inconsistent with the Rules and is at risk of being misinterpreted or abused. Issues relating to in market operations of feeder and slaughter livestock are addressed as part of approving an ESCAS, which is dealt with elsewhere in the Rules. To arbitrarily apply one component of ESCAS to a pre-export approval, noting that the holder must have an approved ESCAS before applying for pre-export approval (as specified in (4)) is duplicative, illogical and a waste of resources.

#### *8-7 Pre export approval may be given subject to conditions*

- S8-7(1) identifies that approval can be given subject to any conditions ‘the Secretary considers appropriate’. As written, there is no requirement to justify this decision and no channels for recourse by the exporter. This will create the risk of misinterpretation and abuse. Rectification of this oversight can be included in s8-8.

#### *8-8 Notice of decision relating to pre export approval*

- This section must include the requirement for the Secretary to explain the rationale for refusing an approval and an opportunity for the exporter to rectify the issue, if it can be done so consistent with the importing country requirements and good animal welfare. It also needs to include the issue raised in s8-5 above, that any time already spent in quarantine counts toward to requirement to submit a NOI within 10 working days.

#### *8-9 Secretary may revoke pre export approval*

- S8-9(1)(c) identifies that a NOI may be revoked if additional or corrected information has been provided. This is farcical and at odds with good animal health and welfare practices, as outlined in the comments relating to s8-4, above. This is especially the case when considering issues such as changing numbers or classes of livestock in a consignment or the name of a stockperson. Noting that s8-9(2) requires that written advice of a decision must be provided, in most cases the time taken to review the additions or corrections would be shorter than the time to produce the written advice and is, therefore, a waste of resources.

#### *8-11 Pre export approval of consignment of prescribed live animals*

- S8-11(3)(c) – refer comments re s8-6 above.

#### *8-12 Pre export approval may be given subject to conditions*

- Refer comments re s8-7 above.

#### *8-13 Notice of decision relating to pre export approval*

- Refer comments re s8-8 above.

#### *8-14 Secretary may revoke pre export approval*

- S8-14(1)(c) – refer comments re s8-9 above.

### **Chapter 9—Powers and officials**

#### **Part 1—Audits**

##### *9-3 Manner in which audit must be conducted*

- To ensure the requirements of s9-3(b) are met in terms of minimising interference on an exporter’s operations, this section needs to include that a timeframe for the audit to occur must be agreed with the relevant person and the scope of the audit advised to enable appropriate preparation and resourcing.

#### **Part 3—Accredited veterinarians**

##### *9-13 Conditions of accreditation*

- It is unclear why S9-13(5) only relates to documents given to the accredited veterinarian. Surely it should also relate to any documents generated by the accredited veterinarian in connection with the export operations (refer s9-26) and requested by DAWE.

### *9-31 Dealing with applications*

- S9-31(2) identifies that not making a decision on an application within the consideration period means the Secretary has refused the application. This needs to include the requirement for the Secretary to communicate this to the applicant.

## **Part 4—Approved export programs**

### *9-34 Assessment of application and Secretary's decision*

- DAWE has previously advised that s311 of the Act states that AEPs are to ensure the health and welfare of animals. However, this is inconsistent with how DAWE currently applies its AEP approval processes, as the specific details of the importing country requirements are needed in a proposed program before it is approved. Either s9-34(5) is revised to also refer to compliance with the importing country requirements or DAWE changes its approval processes. This issue is raised repeatedly below.

### *9-36 Holder may apply for approval of variation of approved export program*

- S9-36(6) should also identify compliance with the importing country requirements.
- S9-36(8) & (9) need to include the requirement to communicate this to the applicant in writing.

### *9-37 Secretary may require holder to vary approved export program*

- S9-37(2) must also refer to compliance with the importing country requirements.

### *9-39 Holder may request suspension of approved export program*

- S9-39(7) must also refer to compliance with the importing country requirements.
- S9-39(9) & (10) need to include the requirement to communicate this to the applicant in writing.

### *9-40 Request to revoke suspension*

- This section needs to include the requirement to communicate this to the applicant in writing.

### *9-41 Secretary may suspend approved export program*

- S9-41(2) must also refer to compliance with the importing country requirements.

### *9-43 Secretary may revoke approved export program*

- S9-43(2) must also refer to compliance with the importing country requirements.

## **Chapter 11—Miscellaneous**

### **Part 1—Review of decisions**

#### *11-1 Reviewable decisions*

- While this section identifies what decisions are reviewable, it fails to recognise the time-bound nature of livestock exports. A range of issues impact on the timing of an export shipment, including vessel chartering, hiring of resources for the preparation and loading of livestock and the currency of testing results. This requires recognition and mechanisms identified to ensure any reviewable decisions are dealt with expeditiously, rather than becoming a barrier to trade.

## **Chapter 12—Transitional provisions**

- This section deals with livestock export licenses in relation to ESCAS and NOI approvals but does not specify any transitional provisions for export license applications, applications to vary an export license or conditions on an export license.

- Clarification via a Note is required that the registration applies to the establishment and the occupier is the person in whose name the establishment is registered. Also, s147 of the Act sets out what to do if a person ceases to be an occupier.
- A reference needs to be included that the occupier is responsible for registration and other matters. This is currently unclear as DAWE currently requires exporters to include compliance with the registration requirements of RPs in their approved arrangements.

Please do not hesitate to contact me at [ceo@livexcouncil.com.au](mailto:ceo@livexcouncil.com.au) or on 0400 980 452 should you wish to discuss further.

Yours sincerely



Mark Harvey-Sutton  
Chief Executive Officer  
Australian Livestock Exporters' Council

CC.

Dr Melissa McEwen, Principle Regulatory Officer, Plant & Live Animal Exports, Department of Agriculture, Water and the Environment

