

Portfolio Committee No. 5

Sustainability of the dairy industry in New South Wales

Ordered to be printed 13 December 2018 according to
Standing Order 231

New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Legislative Council. Portfolio Committee No. 5 – Industry and Transport

Sustainability of the Dairy Industry in New South Wales / Portfolio Committee No. 5 – Industry and Transport [Sydney, N.S.W.] : the Committee, 2018. [x; 82] pages ; 30 cm. (Report no. 51 / Portfolio Committee No. 5 – Industry and Transport)

“December 2018”

Chair: Hon. Robert Brown, MLC.

ISBN 9781922258717

1. Dairying—Economic aspects—New South Wales.
- I. Dairy products industry—Economic aspects—New South Wales.
- II. Brown, Robert.
- III. Title.
- IV. Series: New South Wales. Parliament. Legislative Council. Portfolio Committee No. 5 – Industry and Transport. Report ; no. 51

338.17709944 (DDC22)

Table of contents

	Terms of reference	v
	Committee details	vi
	Chair's foreword	vii
	Findings and recommendations	viii
	Conduct of inquiry	x
Chapter 1	The dairy industry in New South Wales	1
	New South Wales dairy industry snapshot	1
	The dairy value chain	3
	Farmer and processor relationship	4
	Processor and retailer relationship	5
	Retailer and consumer relationship	6
	The dairy market	7
	An international and domestic market	7
	Deregulation	9
	The ACCC's report and findings	12
	Key findings and recommendations	13
	Committee comment	14
Chapter 2	Key issues in the New South Wales dairy industry	17
	Retail milk prices: \$1 per litre milk	17
	Devaluation of milk	19
	The impact of global milk prices	21
	Committee comment	22
	Bargaining power: farmer-processor relationship	23
	Farmer-processor power imbalance	23
	Farmer-retailer supply arrangements	28
	Committee comment	30
	Falling margins for farmers	30
	Cost of production versus farmgate price	33
	Drought preparedness	34
	Committee comment	35
	Personal impact on farmers	36
	Future generations	38
	Committee comment	39

Chapter 3	Initiatives to sustain the New South Wales dairy industry	41
	National approach	41
	Mandatory Code of Conduct	41
	Committee comment	45
	New South Wales dairy industry plan	46
	Dairy export plan	48
	Committee comment	49
	An independent advocate for New South Wales dairy farmers	50
	Arbitration and dispute resolution	50
	Contract assistance	51
	Annual review of the state of the dairy industry	51
	Is a NSW Commissioner for Dairy needed?	52
	Committee comment	54
	Research, development and extension	55
	Government research and development programs	56
	Funding for research and development	57
	Collaboration with academia in research and development	59
	Committee comment	60
Appendix 1	Submissions	63
Appendix 2	Witnesses at hearings	64
Appendix 3	Minutes	67

Terms of reference

1. That Portfolio Committee No.5 – Industry and Transport inquire into and report on the long-term sustainability of the dairy industry and the role of the Department of Primary Industries and other government agencies in supporting the industry, and in particular:
 - (a) The nature of, and relationship within, the value chain between farmers, processors, logistics companies and retailers and their respective influence on price;
 - (b) The impact of external influences on the dairy industry, including but not limited to drought, water, energy, and price-setting;
 - (c) The impact of previous policies, in particular, the deregulation of the dairy industry; and
 - (d) The role of government in addressing key economic challenges to the industry.

2. That the committee report on, or by, 14 December 2018.

The terms of reference were self-referred by the committee on 17 October 2018.¹

¹ *Minutes*, NSW Legislative Council, 17 October 2018 p 3028.

Committee details

The Hon Robert Brown MLC	Shooters, Fishers and Farmers Party	<i>Chair</i>
The Hon Mick Veitch MLC	Australian Labor Party	<i>Deputy Chair</i>
The Hon Rick Colless MLC	The Nationals	
The Hon Wes Fang MLC	The Nationals	
The Hon Courtney Houssos MLC*	Australian Labor Party	
The Hon Scot MacDonald MLC	Liberal Party	
The Hon Mark Pearson MLC	Animal Justice Party	

* The Hon Courtney Houssos MLC substituted for the Hon Daniel Mookhey MLC for the duration of the inquiry.

Contact details

Website	www.parliament.nsw.gov.au
Email	Portfoliocommittee5@parliament.nsw.gov.au
Telephone	02 9230 3081

Chair's foreword

Throughout the course of this inquiry, the committee has heard of the dire situation in which the state's dairy farmers now find themselves. The number of dairies in New South Wales decreases every year as farming businesses are squeezed by processors and retailers intent on bolstering their own profits and market share. It is now five minutes to midnight in the fight to save many New South Wales dairy farming businesses from collapse.

It is clear to the committee that the price being paid to farmers for their milk supply has not kept pace with the increasing cost of production. This has resulted in farmers operating at ever slimmer margins, year on year. The committee is particularly concerned by the evidence of farmers who told the committee that they cannot draw even a modest wage for themselves from their farming businesses.

While it is clear that recent drought conditions have added pressure to dairy farmers, the committee considers that the drought has not caused, but exacerbated the structural problems within the industry that are resulting in poor outcomes for farmers.

Much has been said about the impact of large retailers selling their own brand of milk at \$1 per litre, as has been the case since 2011. The Australian Competition and Consumer Commission found that this practice does not directly impact the price paid to dairy farmers for their milk supply. This committee has found, based on the evidence before it, what is intuitive to even the casual observer and abundantly clear to farmers themselves: that retailers selling milk for \$1 per litre has removed considerable value from the dairy value chain. This has contributed to financial pressure on New South Wales dairy farmers.

Dairy farming businesses are clearly struggling to survive and this committee is greatly concerned both for the sustainability of the industry and for the wellbeing of farmers. More must be done to stop the devaluation of dairy products and to ensure that a greater portion of the profit along the dairy value chain finds its way to farmers—before it is too late.

The committee is glad to have had the opportunity to hear directly from dairy farmers and inquire into the state of the industry in New South Wales. We have made a number of findings and put forward a suite of recommendations that, if acted upon immediately, will go some way to ensuring the sustainability of the New South Wales dairy industry.

However, the committee considers that its ability to do justice to the issues now facing the state's dairy farmers has been limited by the time available to us before end of the parliamentary term. Also, we were disappointed by the lack of transparency and cooperation from large retailers and some dairy processors. To allow for a more complete scrutiny of the New South Wales dairy industry, we strongly recommend that the inquiry be re-opened in the next Parliament in 2019.

I would like to thank the many participants in this inquiry who provided submissions and appeared before the committee. In particular, I thank the dairy farmers who took valuable time away from their farms to share their concerns, experiences and expertise with the committee.

I would also like to thank my colleagues on the committee for their commitment and hard work during the course of the inquiry and the committee secretariat for their professional assistance.



The Hon Robert Brown MLC
Chair

Findings and recommendations

- Finding 1** **23**
That a retail price of \$1 per litre for drinking milk has removed considerable value from the value chain. This has contributed to financial pressure on New South Wales dairy farmers.
- Finding 2** **30**
That there is a power imbalance between New South Wales dairy farmers and processors that impacts significantly on the viability of dairy farming businesses.
- Finding 3** **36**
That analysis done as part of the Dairy Farm Monitor Project, shows that 2017-18 was the worst year for net farm income in New South Wales since 2011-12.
- Finding 4** **36**
That the farmgate price for raw milk currently being paid to New South Wales dairy farmers is inadequate to cover their cost of production and allow for a reasonable profit margin, irrespective of drought conditions.
- Recommendation 1** **15**
That, as the timeframe for this inquiry was limited by the end of the parliamentary term, and as strong evidence of extreme farm stress is evident, the Legislative Council consider re-establishing the inquiry into the sustainability of the dairy industry in New South Wales, or a similar inquiry, in the new Parliament in 2019.
- Recommendation 2** **23**
That the NSW Government work with retailers to consider expanding mechanisms, such as the current 'drought levy' some retailers have on certain milk products, to ensure that the retail price of milk takes account of the ongoing increases in cost of production and to ensure the levy is returned to farmers in full.
- Recommendation 3** **45**
That the NSW Government work with Commonwealth and industry bodies to ensure that the Mandatory Code of Conduct is implemented as a matter of urgency.
- Recommendation 4** **46**
That the NSW Government urgently and actively pursue, through relevant state and national forums, further measures that facilitate the ability of dairy farmers to collectively bargain with processors for their milk supply, including through the implementation of a collective bargaining code as part of the dairy industry Mandatory Code of Conduct.
- Recommendation 5** **46**
That the NSW Government implement an immediate assistance package, in addition to any existing drought measures, to provide financial support to New South Wales dairy farmers to ensure that they remain financially viable through to the implementation of the Mandatory Code of Conduct.

Recommendation 6**49**

That the NSW Government, as a matter of urgency, and in consultation with farmers and industry representatives, develop an update to the 2016 NSW Dairy Industry Strategic Action Plan that includes:

- a dairy export plan that articulates how extra milk production can be marketed and sold, and new markets identified
- a report of progress against the objectives and action areas identified in the 2016 plan
- a set of ongoing, measureable, high-order objectives and action areas for government and industry stakeholders, including timeframes for delivery and progress reporting
- a plan for reporting directly back to farmers on the Action Plan.

Recommendation 7**55**

That the NSW Government immediately establish and fund an independent NSW Commissioner for Dairy with consideration given to the following functions:

- provide arbitration and dispute resolution support for farmers in negotiations with dairy processors
- provide advice to farmers to engage in collective bargaining where appropriate
- provide assistance to farmers in understanding and negotiating contracts for their milk supply
- conduct annual reviews into the state of the New South Wales dairy industry, including an assessment of farmgate milk prices in New South Wales regions in relation to the cost of production, and reporting on market issues raised by farmers.

Recommendation 8**60**

That the NSW Government promote its Farm Innovation Fund and consider ways to improve access for dairy farmers.

Recommendation 9**61**

That the NSW Government reinstate its historic role in providing independent advice directly to farmers on the extension of research and development initiatives.

Recommendation 10**61**

That the NSW Government increase its funding for research and development projects in the New South Wales dairy industry and ensure there is a focus on a collaborative, co-investment model between the university sector, the NSW Government and the private sector.

Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 17 October 2018.

The committee received 25 submissions.

The committee held four public hearings: two at Parliament House in Sydney and one each in Moss Vale and Taree.

The committee also conducted a site visit to a dairy farm in the Upper Lansdowne area.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Chapter 1 The dairy industry in New South Wales

This chapter provides a snapshot of the dairy industry in New South Wales, including an outline of how the dairy value chain and the dairy market operate in the state. The chapter concludes with a brief discussion of the recommendations made in the April 2018 Australian Competition and Consumer Commission (ACCC) inquiry and report into the dairy industry.

New South Wales dairy industry snapshot

- 1.1 According to Dairy Australia's *Australian Dairy Industry in Focus 2018*:
- New South Wales is the second largest dairy producing state, behind Victoria.²
 - Production is from 626 farms across New South Wales, with this number decreasing every year.³
 - There are 160,000 head of dairy cows in New South Wales, with this number decreasing in recent years.⁴
 - There was an annual production of 1,121 million litres in 2017-18, which has been relatively stable over recent years. By way of comparison, Victoria's annual production for this time period was 5,965 million litres.⁵
 - The value of milk leaving farms was \$566 million in 2017-18.⁶
- 1.2 The NSW Government stated that New South Wales is unique in the Australian dairy industry given its diverse geographical spread and associated environmental conditions as 'production is spread across 10 Local Land Services (LLS) regions with more than 50 per cent of NSW milk produced in the South East and Murray LLS regions'.⁷
- 1.3 In addition, a large proportion of milk from the southern regions (South East and Murray LLS regions) is used for manufacturing whilst the northern regions (North Coast and Hunter LLS regions) are more focused on the supply of fresh milk markets.⁸
- 1.4 Despite this, the New South Wales dairy industry operates year round, in contrast to the production in Victoria, which is seasonal. This does result in increased costs of production, including requiring non-milking periods for cows and the purchase of additional feed.
- 1.5 In terms of consumption, the NSW Government advised that the majority of Australian milk production is consumed domestically, primarily as drinking milk, cheese, yoghurt and butter and in New South Wales approximately 75 percent of milk produced is for domestic consumption.⁹

² Dairy Australia, *Australian Dairy Industry in Focus 2018*, p 6.

³ Dairy Australia, *Australian Dairy Industry in Focus 2018*, p 6.

⁴ Dairy Australia, *Australian Dairy Industry in Focus 2018*, p 7.

⁵ Dairy Australia, *Australian Dairy Industry in Focus 2018*, p 15.

⁶ Dairy Australia, *Australian Dairy Industry in Focus 2018*, p 36.

⁷ Submission 20, NSW Government, p 4.

⁸ Submission 20, NSW Government, p 4.

⁹ Submission 20, NSW Government, p 4.

- 1.6** The Australian processing sector, according to the ACCC, is characterised by several major processors and a relatively large number of smaller operators. In New South Wales this includes Fonterra, Bega Cheese, Lion Dairy, Parmalat, Saputo and the smaller operator Norco Co-operative.¹⁰
- 1.7** In terms of retailers, the ACCC advised that three national supermarket chains dominate the retail channel (Coles, Woolworths and Aldi), and there is also a highly competitive international market.¹¹
- 1.8** Mr Scott Hansen, Director General, NSW Department of Primary Industries, highlighted the importance of the dairy industry to New South Wales:
- ... we are acutely aware of the importance of the dairy industry to the State of New South Wales. Not only is it worth more than half a billion dollars in gross domestic product [GDP], it also represents more than 660 dairy families and dairy businesses across the State.¹²
- 1.9** Mr Hansen advised the committee that 2017-18 has been 'extremely tough' for dairy farm businesses. He said:
- In fact, in the seven years that we have been doing the Dairy Industry Farm Monitor Project, which monitors the economic and physical performance of dairy farms across the State, this has been the lowest year of return for dairy farmers. That has largely been driven, of course, by the fact that seasonal conditions have driven up input prices for fodder, feed and water considerably. It has been an incredibly tough year for the industry.¹³
- 1.10** The ACCC stated that the 'typical Australian dairy farm is a family owned and operated enterprise which involves high fixed costs and requires year-round intensive work amid uncertain and sometimes damaging climate conditions. For most dairy farmers, profitability is uncertain and subject to many variables beyond their control'.¹⁴

¹⁰ Australian Competition and Consumer Commission, *Dairy inquiry: Interim report*, November 2017, pp 44-45.

¹¹ Australian Competition and Consumer Commission, *Dairy inquiry: Interim report*, November 2017, p 56.

¹² Evidence, Mr Scott Hansen, Director General, NSW Department of Primary Industries, 16 November 2018, p 2. The figure of 660 was clarified by Mr Hansen, noting that there were 660 dairy farms in the state in 2016-17 and that the 2017-18 figure is 626.

¹³ Evidence, Mr Scott Hansen, Director General, NSW Department of Primary Industries, 16 November 2018, p 2.

¹⁴ Australian Competition and Consumer Commission, *Dairy inquiry: Final report*, April 2018, p xiii.

The dairy value chain

1.11 In general terms the dairy value, or supply, chain was outlined by the ACCC as follows:

- Cows are generally milked twice daily, with milk then refrigerated on farm in bulk tanks until collected by the processor, generally within 24 to 48 hours.
- Processors then transport the raw milk to their processing facilities. Depending on the processor and the intended end use, raw milk is generally pasteurised within 24 to 48 hours of collection from the farm.
- Following pasteurisation, milk is further processed into drinking milk or exportable products such as cheese, butter, yogurt and milk powder. These products are then sold domestically to retail outlets or exported.
- Over 90 per cent of the drinking milk, including long life milk, produced in Australia is consumed domestically, whilst the majority of milk powders and about half the cheese produced in Australia are exported. Major supermarket chains account for most fresh drinking milk sales.¹⁵

1.12 As described by the NSW Farmers' Association, the dairy supply chain has three distinct relationships: dairy farmer and processor; processor and retailer; and retailer and consumer. NSW Farmers Association advised that '[e]ach of these relationships is highlighted by power imbalances between participants. By virtue of their position at the beginning of the chain, farmers have limited opportunity to resist these pressures'.¹⁶

1.13 The ACCC indicated on a national level that:

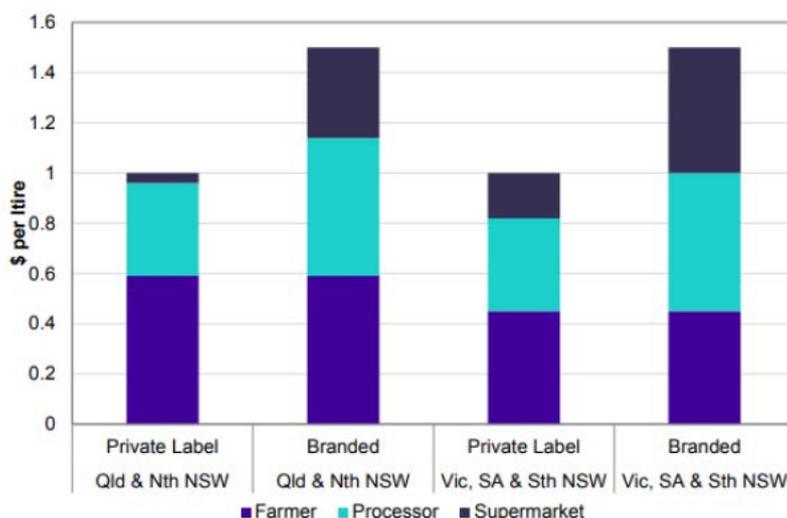
The Australian dairy industry contains thousands of farmers, six major processors (and a series of smaller processors), three national supermarket chains dominating the retail channel, and a highly competitive global market. This gives rise to tiers of bargaining power through the supply chain, with supermarkets and the internationally traded market at the top, farmers at the bottom, and processors in between.¹⁷

1.14 Below is a figure provided by the NSW Government on the distribution of retail price between industry participants in the supply chain.

¹⁵ Australian Competition and Consumer Commission, *Dairy inquiry: Interim report*, November 2017, p 33.

¹⁶ Submission 18, NSW Farmers' Association, p 7.

¹⁷ Australian Competition and Consumer Commission, *Dairy inquiry: Interim report*, November 2017, p 56.

Figure 1 Distribution of retail price between participants in the supply chain

Submission 20, NSW Government, p 7 (reproduced from ACCC Dairy Industry report 2017)

1.15 The relationships between the parties in the value chain are outlined below.

Farmer and processor relationship

1.16 Farmers provide raw milk to processors, who collect it from the farm and transport it to their processing plant. Processors generally have contractual arrangements with individual farmers, or a collective bargaining group of farmers, which includes the farmgate price the processors will pay for the milk along with other conditions.¹⁸

1.17 Some dairy farmers are part of collective bargaining groups (CBGs). Dairy Farmers Milk Co-operative (DFMC) provided the committee with details on collective bargaining in the dairy industry, and used themselves by way of example:

DFMC currently has 345 farmer members in five regions – Far North Queensland, South East Queensland, Central NSW, Northern Victoria and Central South Australia. DFMC currently supplies approximately 270 million litres of milk per annum to LDD [Lion Dairy & Drinks] representing around 50% of LDD's overall milk pool purchased from farmers within the regions in which we operate.¹⁹

1.18 DFMC advised that there are only a few operating CBGs in the dairy industry, other than DFMC:

Many CBGs have been authorised or have sought authorisation, but few are working examples. The ACCC website indicates there have been 18 CBG authorisations registered covering some 500 farming families¹. In practice, DFMC is aware of only one other significant group active at this time – Premium Milk in South East Queensland (who supply Parmalat). There are two or three small CBGs who supply relatively small

¹⁸ Australian Competition and Consumer Commission, *Dairy inquiry: Interim report*, November 2017, p 168.

¹⁹ Submission 22, Dairy Farmers Milk Co-operative, p 2.

quantities of milk to Woolworths. There are also Collective Bargaining Groups in other agricultural pursuits and other non-agricultural applications.²⁰

1.19 The committee also heard of an example of farmers selling their milk directly to retailers, the Manning Valley Fresh group who supply direct to Woolworths.²¹

1.20 The NSW Farmers' Association advised that the relationship between farmer and processor 'is marked by a clear market power imbalance and the difference in bargaining power enables processors to shift risk to farmers'. This means that farmers operate with a high degree of uncertainty.²² A number of factors impact on this relationship including that:

- competition between processors is limited as the market for the supply of raw milk is geographically restricted by the ability to viably transport milk for processing
- the perishable nature of the product and relentless nature of dairy production, as cows have to be milked each day
- reluctance on the part of farmers to challenge the prices or terms offered by a processor, as any renegotiation or conflict could mean spoilage of their milk
- information disparity between farmers and processor, as farmers are faced with complex contracts that differ widely between each processor and make comparability challenging.²³

Processor and retailer relationship

1.21 Processors supply milk and other dairy products to retailers for sale on domestic (and international) market. Retailers, or supermarkets, have contractual arrangements with processors which includes price to be paid for their products.²⁴

1.22 According to Professor Ian Lean, Managing Director, Scibus, 'all major milk companies have changed hands or structure in the last 10-15 years with the demise of Australian owned co-operatives and a marked lack of Australian ownership of the processing sector'. He also pointed out that 'while Bega (now publicly listed), Norco (co-operative) are still in Australian hands, Saputo, Lion, Fonterra and Parmalat, representing the vast majority of milk control, are foreign owned'.²⁵

1.23 The NSW Farmers' Association advised that:

There is a strong link between the lack of competition in the processing sector and the end market of these products, being one controlled by a few retailers. This correlation

²⁰ Submission 22, Dairy Farmers Milk Co-operative, p 4.

²¹ Submission 17, Mr Tim Bale, p 1.

²² Submission 18, NSW Farmers' Association, p 9.

²³ Submission 18, NSW Farmers' Association, p 9.

²⁴ Australian Competition and Consumer Commission, *Dairy inquiry: Interim report*, November 2017, p 57-62 and Evidence, Mr Paul Harker, Director Fresh Foods, Group Replenishment and Buying Support, Woolworths, 26 November 2018, p 20.

²⁵ Submission 1, Professor Ian Lean, p 3..

demonstrates the power and the ability of retailers to squeeze margins from the rest of the supply chain, particularly in establishing one-dollar a litre milk.²⁶

- 1.24 The issue of power imbalance in the value chain is discussed in later chapters.

Co-operatives

- 1.25 There are also co-operatives operating in the dairy industry, which both produce milk and process dairy products to supply to retailers. Norco Co-operative Limited is an example of a successful co-operative operating in the New South Wales and Queensland dairy industry:

Norco is a dairy Co-operative based in northern New South Wales and south east Queensland with its Head Office located in Lismore NSW. We are proud to be able to say that we are a 100% farmer owned dairy co-operative that has been in business since 1895. Norco has 315 active members on 200 farms supplying fresh milk to the Co-operative 365 days a year. Our farms are spread from Kenilworth QLD in the north, west to Toowoomba QLD and down along the coastal fringe to Taree and Gloucester NSW in the south.²⁷

Retailer and consumer relationship

- 1.26 Retailers or supermarkets sell dairy products to consumers. According to the ACCC, the major supermarket chains account for over half of domestic fresh drinking milk sales. Also, supermarkets represent the largest channel for domestic dairy sales (38 per cent) followed by convenience stores (33 per cent) and food services/hospitality (27 per cent).²⁸
- 1.27 In terms of consumer preference, in 2016-17, supermarket private label brands accounted for 61 per cent of regular full fat and 50 per cent of modified fresh white milk sales. Over the last decade, two litre bottles have remained relatively stable with a share of 47 per cent, while one litre cartons and bottles have fallen from 33 per cent to 16 per cent, which the ACCC advised has offset by increased sales of three litre bottles.²⁹
- 1.28 The NSW Farmers' Association advised that consumers have expectations around quality of product, socially responsible production and price:

Australian consumers have a justified expectation that dairy products are safe and of high quality. These products must also adhere to high standards of welfare, environmental, and workplace relations. However, the desire for quality is also accompanied with an expectation that the product will be low cost.³⁰

²⁶ Submission 18, NSW Farmers' Association, p 10.

²⁷ Submission 11, Norco Co-operative Limited, p 1.

²⁸ Australian Competition and Consumer Commission, *Dairy inquiry: Interim report*, November 2017, p 48.

²⁹ Australian Competition and Consumer Commission, *Dairy inquiry: Interim report* *Dairy inquiry: Interim report*, November 2017, p 48.

³⁰ Submission 18, NSW Farmers' Association, pp 11-12.

- 1.29** In the ACCC's overview of the industry, it also highlighted that consumers demand continuous supply of high quality dairy products at low prices. This is demonstrated in the pricing of private label milk, where the major Australian supermarkets have exercised their bargaining power to elicit lower wholesale prices from processors. The ACCC advised that:

The ability of the supermarkets to leverage their bargaining power has reduced the profit margins of processors. Ultimately this has enabled the supermarkets to maintain low retail prices. While supermarkets have retained some of these savings for themselves, they have mostly transferred them to consumers.³¹

- 1.30** Professor Ian Lean, Managing Director, Scibus, stated that Coles and Woolworths have an approximately 80 per cent market share of the Australian internal market for agricultural products. He described the impact of the concentrated purchasing power of supermarkets:

This concentration of purchasing power has been used to reduce returns to farmers ...

In my view, this unique oligoscopy of Supermarket ownership results in a disproportionate position in regard to negotiation for supply of milk. In the US and UK there is a far more diverse internal market for whole milk. The problems of the disproportionate power of the supermarkets is recognized in the ACCC report (2017).³²

The dairy market

An international and domestic market

- 1.31** The NSW Government advised that 'Australia's dairy farmers participate in an international dairy market and a deregulated domestic market. As a result, the dairy industry operates in an environment where international prices are the major factor determining the price received by farmers for their milk'.³³
- 1.32** According to the NSW Government, Australia is the fourth largest exporter of dairy products (six per cent of global dairy trade), despite only producing two per cent of the world's milk. Milk powders and cheese account for the majority of exported dairy products.³⁴
- 1.33** In recent years, Australia has exported around 30 to 40 per cent of its milk. The combination of a declining milk production base and a larger domestic market has resulted in less milk available for export. In 2017-18, New South Wales exported approximately 25 percent of its milk.³⁵
- 1.34** Professor Ian Lean, Managing Director, Scibus, stated that the 'price paid for dairy products reflects two distinct market entities – the internal market for dairy products (milk, yoghurts, flavoured milk products etc) and the external or export market dominated by sale of milk

³¹ Australian Competition and Consumer Commission, *Dairy inquiry: Final report*, April 2018, p xii.

³² Submission 1, Professor Ian Lean, pp 2-3.

³³ Submission 20, NSW Government, p 8.

³⁴ Submission 20, NSW Government, p 5.

³⁵ Submission 20, NSW Government, p 5.

powders, butter and cheese'.³⁶ In addition, the majority of milk in New South Wales is produced for internal consumption and is considered to be of very high quality.³⁷

- 1.35** In order to support the drinking milk market the NSW Government indicated that farmers need to supply milk year round:

Supplying the drinking milk market means that farmers generally need to supply year-round, with relatively even production across the year. In areas where lower rainfall results in slower or inconsistent pasture growth, there is a much greater reliance on supplementary feeding and irrigation. NSW farmers therefore tend to be more reliant on purchased feed to maintain milk production than southern states during times of pasture shortages. They also have a higher labour requirement throughout the year.³⁸

- 1.36** Below is a figure provided by the NSW Government on the use of Australian milk by state in 2016-17. It demonstrates that the domestic drinking milk is the main market in New South Wales, whereas, for Victoria and Tasmania, the export market is more prominent.

Figure 2 Use of Australian milk by state in 2016-17



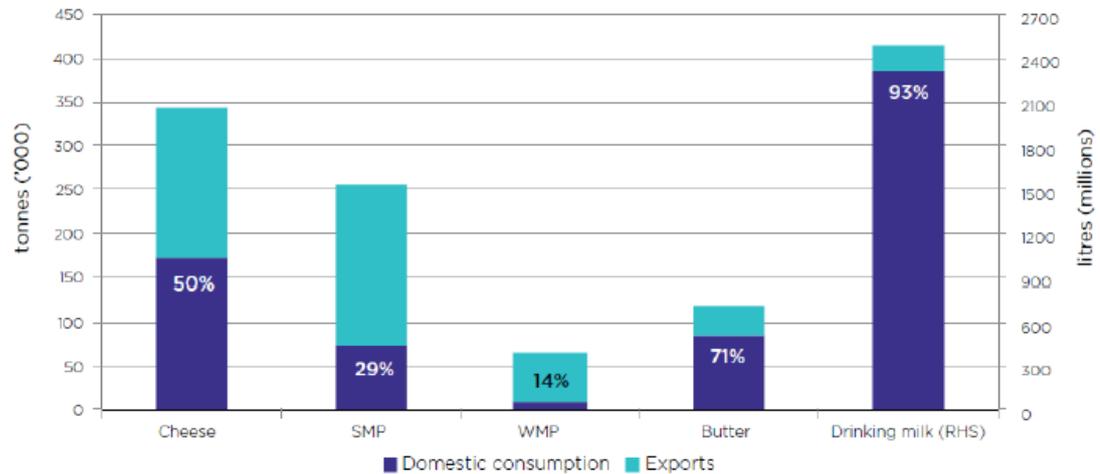
Source: Submission 20, NSW Government, p 4 (reproduced from Dairy Australia, *Australian Dairy Industry in Focus 2017*)

- 1.37** Below is a figure provided by the NSW Government on the share of production consumed by major product in 2016-17.

³⁶ Submission 1, Professor Ian Lean, p 2.

³⁷ Submission 1, Professor Ian Lean, p 2.

³⁸ Submission 20, NSW Government, pp 4-5.

Figure 3 Share of production consumed by major product in 2016-17

Source: Submission 20, NSW Government, p 5. Note: SMP = skim milk powder, WMP = whole milk powder

- 1.38** The NSW Government indicated that as at 2016-17 dairy farms had the lowest farm business profit of all broadacre industries reported, for the last three years. Further to this, New South Wales has fared worse than any other state in 2017-18.³⁹
- 1.39** The NSW Government advised that dairy production in New South Wales and Queensland is also typically higher cost than in Victoria and Tasmania, primarily due to climatic conditions:

In areas where lower rainfall results in slower or inconsistent pasture growth, there is a much greater reliance on supplementary feeding and irrigation. Therefore the price offered to local dairy farmers needs to be higher to provide an incentive to keep producing. In 2016-17 the NSW farmgate milk price was 49 cents per litre, compared to 40.9 cents per litre across Australia.⁴⁰

- 1.40** The ACCC noted that declining farmgate milk prices in Victoria combined with steady farmgate prices in northern New South Wales and Queensland, have increased the incentive for processors to buy milk for Victoria and transport raw milk north.⁴¹
- 1.41** Further discussion on the influence of the international market on milk price is in chapter 2.

Deregulation

- 1.42** During regulation, both state and federal governments implemented legislation that regulated the production, price and use of milk, as well as equalising dairy farmer returns.⁴²
- 1.43** The NSW Government advised that the Australian dairy industry was fully deregulated on 1 January 2000 with the end of the Domestic Market Support Scheme and repeal of state

³⁹ Submission 20, NSW Government, p 6.

⁴⁰ Submission 20, NSW Government, p 8.

⁴¹ Australian Competition and Consumer Commission, *Dairy inquiry: Final report*, April 2018, p 9.

⁴² Australian Competition and Consumer Commission, *Dairy inquiry: Interim report*, November 2017, p 34.

legislation governing the sourcing and pricing of fresh drinking milk. The Australian Government created an eight year \$1.7 billion structural adjustment package to support the deregulation of the industry, funded by a consumer levy on dairy beverages which was applied at the rate of 11 cents per litre from July 2000 until February 2009.⁴³

1.44 According to the NSW Government, the 'impact of deregulation at the farm level varied across jurisdictions and was very much dependent on how important drinking milk was to the individual farm enterprise'.⁴⁴ However, the overall impact was a decrease in the number of dairy farms. For example, in New South Wales, between 1999–2000 and 2016–17, dairy farm numbers fell by 62 per cent.⁴⁵

1.45 In terms of retail prices, Australian supermarket prices for plain, reduced fat and low-fat milk decreased by an average of 22 cents, six cents, and nine cents per litre respectively across all pack sizes and brands from the June 2000 to December 2000 quarter after deregulation.⁴⁶

1.46 The NSW Government indicated that deregulation brought more volatile milk prices to New South Wales dairy farmers:

Deregulation brought lower and more volatile milk prices to NSW dairy farmers which, coupled with the Millennium Drought, forced farmers to develop more adaptable and resilient farming systems. Current milk pricing in NSW is now closely influenced by supply and demand, international prices and exchange rates.⁴⁷

1.47 The NSW Farmers Association advised that deregulation of the New South Wales dairy industry has had a large impact on farmers, with the supply chain fundamentally changing and increasing pressure on farm profits:

The market dynamics of the NSW dairy industry transformed with deregulation. Processors reset their businesses to an open competitive market model, and manufacturing had to adapt to higher costs of milk. Retailers also engaged in various strategies, initially with an increase in branded products and then the development of private label milk, which has since been discounted to drive market share. These changes have created pressure throughout the dairy supply chain as industry participants have had to compete for market share.

Farmers' profitability was affected by changes to the milk price. The milk price fell heavily after deregulation, dropping below 30 cents per litre. Although prices lifted in 2007 and 2008 to 45 and 55 cents per litre—an improvement from the regulated price—there has been little to no improvements in price over the past decade. This is problematic when one recognises the significant increases in energy and other inputs.

Some farmers previously found that the regulated industry was overly restrictive and prevented growth within a business. Deregulation has allowed them to improve their productivity and grow their business. Overall the state's dairy industry may have

⁴³ Submission 20, NSW Government, p 10.

⁴⁴ Submission 20, NSW Government, p 10.

⁴⁵ Submission 20, NSW Government, p 10.

⁴⁶ Submission 20, NSW Government, p 10.

⁴⁷ Submission 20, NSW Government, p 11.

survived, but this is largely due to business consolidation and improved productivity as many individual farmers have exited the industry in the past fifteen years.⁴⁸

1.48 Dairy Connect made the following observations regarding the dairy industry deregulation:

- Since deregulation the farmgate price of milk has not kept pace with CPI or inflation, and hence is falling behind significant input price increases such as energy, feed, labour etc.
- Milk production has stagnated processing and manufacturing capacity in NSW has declined. There has been less investment in the industry impacting on the growth and development of the industry and the opportunities for job creation, especially in rural and regional communities.
- There is market failure that needs to be addressed. We are not advocating for re-regulation in the former method but some form of regulatory intervention is needed to address the imbalance in market power between farmers and processors and between processors and supermarkets.
- Since deregulation there has been no state based generic promotion of the important role of dairy consumption in health and nutrition which can positively influence increased demand.⁴⁹

1.49 Dairy Connect advised that since deregulation 'there has been a continued reduction in the number of dairy farms in NSW, from over 3,000 at the time of deregulation to under 700 in 2018. This number is continuing to diminish'.⁵⁰

1.50 Professor Lean estimated the financial impact of deregulation:

I have estimated the combined effects of deregulation, occurring in two major waves to be a loss in income to Australian farmers to be approximately \$A1.2 Billion per annum, ... and adjusting this for 17 years of inflation, coupled with a further approximately (\$500 million) per annum loss through the \$1 per litre milk initiative. This amount relates to about a \$0.10 c/L loss, a figure completely consistent with the lack of increase in milk returns in real \$ terms over the 20 year period. The transfer in milk value has benefited the supermarkets ... and the consumer.⁵¹

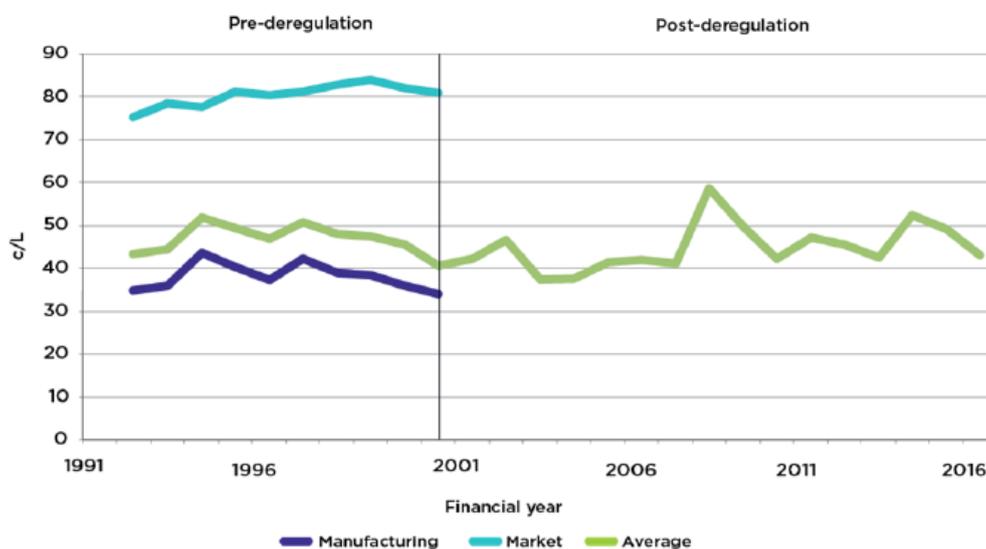
1.51 Below is a figure provided by the NSW Government on the Australian average farmgate milk prices pre and post deregulation.

⁴⁸ Submission 18, NSW Farmers' Association, p 8.

⁴⁹ Submission 24, Dairy Connect Limited, pp 8-9.

⁵⁰ Submission 24, Dairy Connect Limited, p 11.

⁵¹ Submission 1, Professor Ian Lean, pp 7-8.

Figure 4 Australian average farmgate milk prices pre and post deregulation

Submission 20, NSW Government, p 10.

The ACCC's report and findings

- 1.52** The ACCC undertook an inquiry into the dairy industry in Australia in response to the events of 2016, when Australia's two largest dairy processors made retrospective changes to the farmgate prices paid to dairy farmers. This 'caused severe and unforeseen reductions in the incomes of more than 2,000 dairy farmers and significantly impacted the productivity of the industry. Farmers exited the industry and the volume of milk produced fell substantially in the following season'.⁵² The ACCC indicated that this 'resulted in a crisis for the industry'.⁵³
- 1.53** The ACCC conducted an in-depth examination of the effects of retail pricing along the supply chain.⁵⁴ Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, ACCC, advised that:

The ACCC published its final report into this market study on 30 April 2018. The ACCC's inquiry covered a vast terms of reference, requiring the ACCC to examine all levels of the dairy supply chain and other factors such as the impact of export markets on Australian farmgate prices and profits. The ACCC's inquiry identified a range of market failures resulting from the strong bargaining power imbalance and information asymmetry in farmer-processor relationships—mainly the manner by which price information is given to farmers, and risk-sharing in milk supply arrangements between farmers and processors. These industry features have been present since the industry was de-regulated and transitioned away from farmer-based cooperatives, and they have not corrected over time.

⁵² Australian Competition and Consumer Commission, *Dairy inquiry: Final report*, April 2018, p xii.

⁵³ Australian Competition and Consumer Commission, *Dairy inquiry: Final report*, April 2018, p xii.

⁵⁴ Australian Competition and Consumer Commission, *Dairy inquiry: Final report*, April 2018, p xiii.

They result in practices which ultimately cause inefficiencies in dairy production. We made eight recommendations for improved transparency and allocation of risk in the commercial relationship between dairy processors and farmers.⁵⁵

Key findings and recommendations

1.54 The ACCC found that:

- Farmers are disadvantaged by a significant imbalance in the amount of pricing, market and product information available to them compared with processors. Processors are also far better informed about the minimum price that farmers are likely to accept than farmers are about the maximum price that processors are willing to pay.
- The bargaining power imbalance and this information asymmetry result in practices that transfer disproportionate levels of risk to farmers and soften competition between processors. These include complex and poorly timed pricing information, and contract terms which deter switching. These features add to uncertainty of farm income and make it difficult for farmers to identify and act when it is in their interests to switch to a competitive offer from another processor.
- Bargaining power imbalances deter productivity-enhancing investments by farmers if they are unable to capture a sufficient share of the returns to make their investment worthwhile and also restrictions on switching soften competition between processors and reinforce farmers' poor bargaining position.
- Most major dairy processors are now corporations and not farmer-based cooperatives. However, industry practices have not substantially changed to reflect that processor and farmer interests are no longer closely aligned.
- Changes to industry practices to the benefit of farmers will mean some loss of bargaining power for processors relative to farmers.⁵⁶

1.55 The NSW Government advised that the ACCC report 'identified market failures resulting from the strong market power imbalance and information asymmetries associated with farmer-processor relationships'.⁵⁷

1.56 Further to this, however, as indicated by the NSW Government, the ACCC concluded that the retail price of milk is not significantly influencing the farmgate price. Instead, the major influences on farmgate price are a combination of domestic oversupply and international prices for dairy products.⁵⁸ The NSW Government explained:

The ACCC identified that the main impact of \$1 retail price of milk is on processor and retailer margins, with the "loss of value" incurred by these companies passed on to consumers through lower retail prices. The ACCC also found that even when the retail sales price is higher (i.e. for branded products), the farm gate price does not change.

⁵⁵ Evidence, Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 35.

⁵⁶ Australian Competition and Consumer Commission, *Dairy inquiry: Final report*, April 2018, pp xiii-xiv.

⁵⁷ Submission 20, NSW Government, p 7.

⁵⁸ Submission 20, NSW Government, p 7.

This supports the Productivity Commission's analysis that farm gate prices are determined by global prices, not local prices.⁵⁹

- 1.57** This ACCC conclusion is contested by a number of inquiry participants, in particular dairy farmers. This issue will be discussed in the next chapter.
- 1.58** In summary, the ACCC made the following eight recommendations:
1. Processors and farmers should acknowledge in writing the terms and conditions for milk supply
 2. Processors should simplify their contracts where possible, including by minimizing the number of documents and clearly indicating which documents contain terms and conditions of milk supply
 3. Processors should provide all contractual documents simultaneously before the commencement of the dairy season or contract term
 4. Milk supply contracts should not include terms which unreasonably restrict farmers from switching between processors
 5. The industry should establish a process whereby an independent body can mediate and arbitrate in relation to contractual disputes between farmers and processors
 6. Farmers should ensure they have properly considered the legal and financial implications of their contracts with processors
 7. Processors should publish information identifying how their pricing offers apply to individual farm production characteristics to enable better farm income forecasts
 8. A Mandatory Code of Conduct within the act should be established for the dairy industry.⁶⁰
- 1.59** The ACCC advised that its findings and recommendations are focused on encouraging practices that will ultimately facilitate more efficient dairy production and supply in Australia, including improvement of the bargaining position and welfare of dairy farmers.⁶¹
- 1.60** The ACCC's recommendation for a Mandatory Code of Conduct will be discussed in chapter 3.

Committee comment

- 1.61** Throughout the course of this inquiry, the committee sought to understand what is driving poor outcomes for dairy farmers in New South Wales. The committee has received a considerable amount of compelling evidence, from which it has made a number of findings and formulated a suite of recommendations. These are aimed at improving outcomes for farmers and at ensuring the New South Wales dairy industry remains sustainable.

⁵⁹ Submission 20, NSW Government, p 7.

⁶⁰ Australian Competition and Consumer Commission, *Dairy inquiry: Final report*, April 2018, pp xxv-xxvi.

⁶¹ Australian Competition and Consumer Commission, *Dairy inquiry: Final report*, April 2018, pp xiii-xiv.

- 1.62** However, the time available to the committee to conduct this inquiry has been limited by the impending end of the parliamentary term. It is clear to the committee that this short timeframe does not reflect the magnitude of the issues that need to be addressed.
- 1.63** Accordingly, the committee recommends that, as the timeframe for this inquiry was limited by the end of the parliamentary term, and as strong evidence of extreme farm stress is evident, the Legislative Council consider re-establishing this, or a similar inquiry in the new Parliament in 2019.

Recommendation 1

That, as the timeframe for this inquiry was limited by the end of the parliamentary term, and as strong evidence of extreme farm stress is evident, the Legislative Council consider re-establishing the inquiry into the sustainability of the dairy industry in New South Wales, or a similar inquiry, in the new Parliament in 2019.

Chapter 2 Key issues in the New South Wales dairy industry

This chapter outlines a number of key issues across the New South Wales dairy sector as identified by inquiry participants. It begins by describing the evidence received regarding retail pricing practices, namely \$1 per litre milk. It then discusses the bargaining power held by farmers in negotiations with processors for milk supply contracts and the impact this has on farmgate prices. The chapter then briefly looks at the margins being achieved by dairy farmers and the effect this has on farmers ability to prepare for times of drought. Finally, the chapter briefly outlines how the current state of the dairy industry has a significant personal impact on farmers.

Retail milk prices: \$1 per litre milk

2.1 \$1 per litre milk was introduced by major retailers in 2011 through their private-label milk lines.⁶² The committee received conflicting evidence regarding the impact this has had across the dairy value chain. In particular, inquiry participants gave differing accounts of the effect of \$1 per litre milk on the price paid to farmers at the farmgate. This section briefly outlines the evidence received in relation to these matters.

2.2 The NSW Government drew on the finding of the Australian Competition and Consumer Commission (ACCC) with regard to the effect of retail milk pricing. The government pointed to the ACCC's *Dairy inquiry: Final report*, released in April 2018, which found that retail milk prices are not the main influence on farmgate milk prices. The government said that \$1 per litre milk is used as a 'loss leader' by supermarkets to attract customers with the cost absorbed through a lower margin for the retailer:

The ACCC also found that domestic retail milk prices are not the main influence on farm gate milk prices. The retail price premium associated with certain brands of milk is not passed onto dairy farmers but is instead absorbed by higher retail and processor margins. Moreover, the supermarkets use \$1 per litre milk as a "loss leader" to draw customers into their stores and absorb the cost through a lower margin.⁶³

2.3 The government said that that 'even when the retail sales price is higher (i.e. for branded products), the farmgate price does not change'.⁶⁴

2.4 Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, similarly said that the that the price paid to farmers for milk used to fulfil private-label milk contracts is not directly correlated with the retail prices of those products:

One of the issues subjected to considerable analysis during the dairy inquiry is a matter of ongoing debate in the sector—namely, the impact of private-label milk on the farmgate price. The inquiry's final report addressed this issue directly, finding that, "the

⁶² Australian Competition and Consumer Commission, *Dairy inquiry: Interim report*, November 2017, p 144. Note: private label is generally the retailers' own brand.

⁶³ Submission 20, NSW Government, p 2.

⁶⁴ Submission 20, NSW Government, p 7.

farmgate price paid to farmers for milk used to fulfil private-label milk contracts is not directly correlated with private-label milk retail prices".⁶⁵

- 2.5** Mr Bezzi noted that this is a surprising conclusion for many farmers and acknowledged that pricing milk at a \$1 per litre 'devalues the hard work that goes into dairy farming'. He said, however, that almost all contracts for the supply of private label milk allow processors to pass through movement in farmgate prices to supermarkets:

We appreciate that for many farmers, this is a surprising and disappointing conclusion. The ACCC understands and respects the concerns of many people that pricing milk at \$1 a litre devalues the hard work that goes into dairy farming. One dollar is an arbitrary price that has no direct relationship to the cost of production of milk by farmers and processors. A key finding of the inquiry was that almost all contracts for the supply of private-label milk allow processors to pass through movements in farmgate prices to supermarkets. In addition, farmers are paid the same price irrespective of whether their milk goes into private label or branded products. These findings were based on detailed evidence provided by supermarkets and processors.⁶⁶

- 2.6** Ms Vittoria Bon, Government and Industry Relations Manager, Corporate Affairs, Coles, noted that Coles does not have a direct commercial relationship with farmers. Ms Bon said that as a retailer, Coles pays processors, who factor farmgate prices into their price. She also noted that the contracts between the retailer and processor include mechanisms for processors to increase their prices to reflect additional production costs:

...in terms of the farmgate price we do not pay farmers but we pay processors. They tell us what they would like us to pay for their product, which includes those three elements I just mentioned. One of those is the farmgate price. In addition to that, we have rise-and-fall mechanisms in our contracts with processors. As I said, earlier in demonstrating how that works, when one of our supplier processors comes to us and says that they would like to increase the price to reflect additional production costs for their farmers such as Norco did in the case of 5¢ per litre, we accepted that increase.⁶⁷

- 2.7** Mr Christian Bennett, Head of Government Relations and Industry, Woolworths, told the committee that Woolworths 'appreciate that within the industry there are strong emotions and long-held perspectives attached to private labelled milk if they are sold at a price of \$1 per litre'.⁶⁸

- 2.8** Mr Bennett highlighted the conclusions of the ACCC, noting that if retailers agree to increase the price of milk, processors would still not have an incentive to pay farmers any more than they have to secure the milk. He pointed out that the Chairman of the ACCC has emphasised that processors have contractual pass through arrangements in farmgate prices to supermarkets:

We would just like to highlight three key conclusions of the ACCC's report. One, processors do not have an incentive to reduce farmgate prices as a result of lower

⁶⁵ Evidence, Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 35.

⁶⁶ Evidence, Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 35.

⁶⁷ Evidence, Ms Vittoria Bon, Government and Industry Relations Manager, Corporate Affairs, Coles, 26 November 2018, p 6.

⁶⁸ Evidence, Mr Christian Bennett, Head of Government Relations and Industry, Woolworths, 26 November 2018, p 13.

wholesale prices they receive for private labelled milk. The flipside is if supermarkets agree to increase the price of milk and processors receive a higher wholesale price processors would still not pay the farmers any more than they have to secure the milk. Thirdly, and this was a point emphasised by the chairman of the ACCC in his subsequent 18 September press release, given the contractual pass through arrangements in farmgate prices to supermarkets, processors set the farmgate prices independently of the supermarkets' retail prices.⁶⁹

- 2.9** Mr Tim Bale, Dairy Farmer, Chairman, Taree Collective Bargaining Group, however, said that in practice, the cost pass-through from processor to retailer is not happening:

But what you were saying about the others being able to—you were talking about the ability to go back and pass on that cost. We have been told that for years, that it is in the processor's contract with supermarkets that they can go back. But my understanding is when the initial first contracts were done 17 or 18 years ago the question was asked to the processor, "Is this price sustainable for farmers?" and without any hesitation or any recall it was said, "Yes, it is." It would be great if we could get in the room the supermarkets buyers and the process decision makers and actually ask them those questions. I have had the ability to be able to ask Woolworths, "Have they come back and asked?" Well, no, they have not. Then you talk to the processors and they say, "Oh yeah, they won't do it." But they have not asked. To us, it is some of these basic things that are just not happening.⁷⁰

Devaluation of milk

- 2.10** A number of participants asserted that the devaluation of milk in retail outlets has had impacts across the supply chain. The NSW Farmers' Association, for example, disagreed with the ACCC assessment, asserting that if the average retail prices falls, so too does the price at the farmgate:

This shows a lack of commercial understanding by the ACCC. Processors do not purchase milk from farmers for the specific purpose of supplying branded or private label milk. Any price pass-through to farmers will be determined by the average price obtained by the processor from the retailer. This means if the average retail price of milk falls, the average farm-gate price will also fall. This is why dollar a litre milk is viewed with such negativity by dairy farmers.⁷¹

- 2.11** Mr Colin Thompson, Vice Dairy Chair, NSW Farmers' Association, said of supermarket milk prices that 'there is no question that if millions of dollars are taken out of the supply chain the loss will flow through to farmers. It has had quite an impact, despite the findings of the ACCC review'.⁷²

- 2.12** Similarly, Professor Ian Lean, Managing Director, Scibus, asserted that there is a wider structural issue across the supply chain whereby 'there is a massive transfer of funds... from farmer

⁶⁹ Evidence, Mr Christian Bennett, Head of Government Relations and Industry, Woolworths, 26 November 2018, p 13.

⁷⁰ Evidence, Mr Tim Bale, Dairy Farmer, Chairman, Taree Collective Bargaining Group, 19 November 2018, p 3.

⁷¹ Submission 18, NSW Farmers' Association, p 9.

⁷² Evidence, Mr Colin Thompson, Vice Dairy Chair, NSW Farmers' Association, 16 November 2018, p 14.

pockets to supermarkets'.⁷³ Professor Lean estimated that this transfer amounts to about \$1.2 billion a year across all Australian dairy farms, and exceeds \$144 million per year in New South Wales alone.⁷⁴

- 2.13** A considerable number of farmers who participated in the inquiry agreed that \$1 per litre milk was a significant problem.⁷⁵ Mr Trevor Middlebrook, Dairy Farmer, Gloucester, for example, asserted that as a result of low retail prices, there has been a wealth transfer away from rural areas. He claimed that this was not driven by consumer demand for cheaper products, but as a means of increasing market share for retailers:

There has really been a wealth transfer from these rural areas into virtually the investors of—this is a broad statement, of course—Wesfarmers who have—if I could use that phrase again—rained this agony down onto the dairy sector, through trying to grab market share out of Woolworths. You have just seen all this wealth go from all these rural communities into what would be investment portfolios in those businesses, just to grow and develop those businesses and try to pinch market share. It was just done—at the end of the day nobody asked. There was not a single cry from the public that the milk was too dear. It was already discounted.⁷⁶

- 2.14** Mr Murray Sowter, Dairy Farmer, Moss Vale highlighted the fact that over the long term milk prices have not increased in the same way as other products:

In 1992, Australia still had one and two-cent coins in circulation. A stamp was 45 cents, petrol was 62 cents per litre, and milk was \$1 per litre (Tessman, 2011). Today, a stamp is \$1, petrol is about \$1.60 per litre, but milk is still only a dollar.⁷⁷

- 2.15** Brundee Dairy Farmer, Ms Tracy Russell, noted that farmers have lobbied retailers to abandon \$1 per litre milk, without success. She said that '[retailers] sell our milk for \$1. We have pleaded with them to lift the price of milk so that we can have some money within our market but they just will not do it. No matter what, they will not do it'.⁷⁸

- 2.16** Mr Shaughn Morgan, Chief Executive Officer, Dairy Connect, said that \$1 per litre milk is 'manifestly unfair' and suggested that supermarkets must look to ways of increasing the price of dairy products:

We would continue to say as an organisation that supermarkets must look at ways to increase the cost and price of dairy products. We would say that \$1 a litre milk in itself

⁷³ Evidence, Professor Ian Lean, Managing Director, Scibus, 12 November 2018, p 32.

⁷⁴ Evidence, Professor Ian Lean, Managing Director, Scibus, 12 November 2018, p 32; Correspondence, Professor Ian Lean, 27 November 2018.

⁷⁵ For example, Evidence, Mr David Boyd, Dairy Farmer, Terara, 12 November 2018, p 29; Evidence, Mr Tim Cochrane, Dairy Farmer, Candelo, 12 November 2018, p 39; Evidence, Mr Evan Hayes, Dairy Farmer, 12 November 2018, p 47; Evidence, Mr Ian Zandstra, Dairy Farmer, 12 November 2018, p 50; Submission 3, Mr Murray Sowter, pp 3-4; Submission 8, Mr Gregory Schofield, p 3; Submission 9, Mr Peter Graham, p 1; Submission 13, Narrawilly Farm, p 2.

⁷⁶ Evidence, Mr Trevor Middlebrook, Dairy Farmer, Gloucester, 19 November 2018, p 19.

⁷⁷ Submission 3, Mr Murray Sowter, p 2.

⁷⁸ Evidence, Ms Tracy Russell, Dairy Farmer, Brundee, 12 November 2018, p 12.

provides a manifestly unfair value to the nutritious milk that is currently available in this State, and in other States and internationally.⁷⁹

The impact of global milk prices

- 2.17** The NSW Government pointed out that the ACCC, as well as the Productivity Commission, have concluded that the farmgate prices are not significantly influenced by the retail price of milk, and that international prices, as well as domestic oversupply, are the key drivers of farmgate prices:

The ACCC and the Productivity Commission have both concluded that the retail price of milk is not significantly influencing the farm gate price. Instead, the major influences on farm gate price are a combination of domestic oversupply and international prices for dairy products.⁸⁰

- 2.18** The government explained that Australia is a major exporter of dairy products and that both farmers and processors are price takers on the international market meaning they have little ability to raise the price of milk without reducing their competitiveness and sales:

The Australian Competition and Consumer Commission (ACCC) Dairy Inquiry final report (published April 2018) concluded that Australian farm gate milk prices were predominantly influenced by international prices. As Australia is a major exporter of dairy products, both dairy farmers and milk processors are price takers in the international market. This means that farmers and processors have little ability to raise the price of milk without reducing their competitiveness and consequently sales.⁸¹

- 2.19** This is despite the fact that, as highlighted by the NSW Government, 'approximately 75 percent of milk produced [in New South Wales] is for domestic consumption'.⁸²

- 2.20** The NSW Farmers' Association agreed that 'deregulation has... opened the Australia industry to the global market, and this has tied the domestic milk price to a volatile international market currently characterised by low prices and oversupply'.⁸³

- 2.21** Professor Ian Lean asserted that market signals do not necessarily reflect the costs of production, and raised concerns about domestic dairy products having to compete with products imported from international jurisdictions that subsidise milk production:

The price received for milk by processors for the external market is, in general, much less predictable than for the internal market as the major products sold are sold largely as commodities on the corrupted, that is subsidized, international market. Therefore, market signals do not, necessarily, reflect the costs of production of product.

It is important to recognize that despite the best efforts of Australia to produce 'an even playing field' for international markets, we have not succeeded over a period of 30 years. Therefore, there is no protection for producers in regards to the value of export product

⁷⁹ Evidence, Mr Shaughn Morgan, Chief Executive Officer, Dairy Connect, 19 November 2018, p 10.

⁸⁰ Submission 20, NSW Government, p 7.

⁸¹ Submission 20, NSW Government, p 2.

⁸² Submission 20, NSW Government, p 4.

⁸³ Submission 18, NSW Farmers' Association, p 4.

against subsidized milk / milk product production. Major economies that continue to subsidize milk production include the EU, USA and Canada and these, especially the EU with whom we regularly compete for international markets, are unlikely to change policy.⁸⁴

- 2.22** Mr Ash Salardini, Chief Economist, NSW Farmers Association, however, questioned the influence that international milk prices have on local prices. He said that unlike products like milk powder that have an export market, fresh milk is not necessarily beholden to international markets:

The other one is that there is a slight difference between fresh milk and other dairy products. Yes, there is an export market with other dairy products such as powder milk and skim milk and that largely sets the price there. With fresh milk there is a slightly different set of dynamics and it is not necessarily beholden to international markets.⁸⁵

- 2.23** Mr Salardini went on to note that supermarkets are the price setters in the fresh milk market. He said that assertions about the link between international milk price 'and the price that mum and dad pay for milk in a supermarket is flawed because we should look at how the price was set in the first place':

The supermarkets are the price setters. Let us not pretend there is this international market that sets everything. There was no change in the international price for milk when the price went from \$1.60 to \$1 a litre. Coles made that decision and Woolworths followed. This beautiful link between the international milk price and the price that mum and dad pay for milk in a supermarket is flawed because we should look at how the price was set in the first place.⁸⁶

Committee comment

- 2.24** The committee acknowledges the work of the ACCC in its recent inquiry into the Australian dairy industry. The use of its extensive information gathering powers has allowed for an analysis of the value chain that has informed this committee.
- 2.25** The committee received evidence that questioned the ACCC's conclusion that the farmgate price paid to farmers for milk used to fulfil private label milk contracts is not correlated with private label milk retail prices. We acknowledge that retailers contract to processors, and not necessarily directly to farmers, however, if the retail milk price was more than \$1 per litre then there is more room for price negotiation at each point in the value chain. However, there remains a lack of transparency across the supply chain.
- 2.26** The committee considers that retailers charging \$1 a litre for their private label products has undoubtedly removed considerable value from the sector. This has contributed to financial pressure on New South Wales dairy farmers. The fact that retailers have been charging \$1 per litre for these products since 2011 is particularly concerning given the number of CPI increases and increases in the cost of production over the last seven years. It is no wonder that the New South Wales dairy industry is at breaking point.

⁸⁴ Submission 1, Professor Ian Lean, p 2.

⁸⁵ Evidence, Mr Ash Salardini, Chief Economist, NSW Farmers' Association, 16 November 2018, p 15.

⁸⁶ Evidence, Mr Ash Salardini, Chief Economist, NSW Farmers' Association, 16 November 2018, p 19.

- 2.27** The committee is cautious about an increased price for consumers, given rising rates of food insecurity. However, this must be weighed against the potential collapse of the dairy industry in New South Wales, which could result in a much higher price for milk for consumers.
- 2.28** Accordingly, the committee recommends that the NSW Government work with retailers to consider expanding mechanisms, such as the current 'drought levy' some retailers have on certain milk products, to ensure that the retail price of milk takes account of the ongoing increases in cost of production.

Finding 1

That a retail price of \$1 per litre for drinking milk has removed considerable value from the value chain. This has contributed to financial pressure on New South Wales dairy farmers.

Recommendation 2

That the NSW Government work with retailers to consider expanding mechanisms, such as the current 'drought levy' some retailers have on certain milk products, to ensure that the retail price of milk takes account of the ongoing increases in cost of production and to ensure the levy is returned to farmers in full.

Bargaining power: farmer-processor relationship

- 2.29** A number of inquiry participants discussed the nature of the relationship between farmers and processors and the relative bargaining power held by each. Many participants identified that there is an imbalance of power in the processors' favour and this is a key impact on the price farmers are able to secure at the farmgate for their milk supply. This section briefly outlines the evidence received regarding this relationship.

Farmer-processor power imbalance

- 2.30** Some participants described the relationship between processor and farmer as being characterised by unequal bargaining power. The Dairy Farmers Milk Co-op (DFMC), for example, asserted that 'the balance of power in the relationship between processor and farmer, clearly lies with the processor'.⁸⁷
- 2.31** DFMC said that the nature of the power balance means that processors are able to maintain profitability at the expense of farmers. DFMC commented that processors do not wish to be in a position where they are forced to pay the market price, as they might for other input costs:

Even though a market may be dysfunctional in economic terms... the processor still has the opportunity to take a short term view and protect itself at the expense of the farmers. Clearly, some processors view the farmers as a 'safety valve' which will allow

⁸⁷ Submission 22, Dairy Farmers Milk Co-op, p 5.

them to maintain profitability. They do not wish to be in a position where they MUST pay the market price as they would have to with other business inputs such as HDPE plastic pellets or sugar.⁸⁸

2.32 Similarly, the NSW Farmers' Association noted that the relationship between the processor and farmer is one of clear imbalance of power, commenting that this 'bargaining power enables processors to shift risk to farmers. The transfer of commercial risks means that farmers operate with a high degree of uncertainty'.⁸⁹

2.33 Mr Graham Forbes, President, Farmers Group, Dairy Connect, described the power imbalance as 'the main thing that we have been concerned about' and something that Dairy Connect considers 'is a major stumbling block at the moment'.⁹⁰

2.34 Professor Ian Lean commented the limited number of processing companies to which farmers can supply places them at a substantial disadvantage in negotiating contracts for their milk supply:

There has also been a reduction in the number of large milk companies. This limits the number of companies to which farmers can supply. The relatively low number of potential buyers places dairy farmers at a very substantial disadvantage in negotiation and this is regionally very evident in NSW.⁹¹

2.35 Dairy Farmer, Mrs Ruth Kydd, expressed a similar concern, commenting that 'In many areas of NSW many dairy farmers don't have a choice of who they can supply their milk to making it really difficult to negotiate good terms in their milk supply contract'.⁹²

2.36 Mr Bezzi noted that the ACCC identified a range of market failures resulting from the imbalance of power and information asymmetry between the farmer and processor:

The ACCC's inquiry identified a range of market failures resulting from the strong bargaining power imbalance and information asymmetry in farmer-processor relationships—mainly the manner by which price information is given to farmers, and risk-sharing in milk supply arrangements between farmers and processors.⁹³

2.37 Mr Bezzi said that this ultimately causes inefficiencies in dairy production and he pointed out that the ACCC's recommendation for the implementation of a Mandatory Code of Conduct for processors was key to the addressing these failures:

They result in practices which ultimately cause inefficiencies in dairy production. We made eight recommendations for improved transparency and allocation of risk in the commercial relationship between dairy processors and farmers. The most significant

⁸⁸ Submission 22, Dairy Farmers Milk Co-op, p 5.

⁸⁹ Submission 18, NSW Farmers' Association, p 7.

⁹⁰ Evidence, Mr Graham Forbes, President, Farmers Group, Dairy Connect, 19 November 2018, p 8.

⁹¹ Submission 1, Professor Ian Lean, p 3.

⁹² Submission 10, Mrs Ruth Kydd, p 3.

⁹³ Evidence, Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 35.

recommendation was that a mandatory code of conduct be introduced to address these market failures.⁹⁴

- 2.38 The development of a Mandatory Code of Conduct is discussed in more detail in chapter 3.

Perishability of milk

- 2.39 Some inquiry participants commented that farmers' bargaining power is impacted by the perishability of their product. The NSW Farmers' Association, for example, said that 'the perishable and relentless nature of dairy production leaves farmers in a weak bargaining position as compared to processors'.⁹⁵
- 2.40 Mr Scott Hansen, Director General, NSW Department of Primary Industries, similarly said that as 'the vast majority of New South Wales milk produced is for drinking purposes and is fresh milk produced, [it] does make it more vulnerable in terms of that supply-customer relationship'.⁹⁶
- 2.41 Some farmers raised similar concerns. Dairy farmer Ms Sue Boyd, for example, commented that 'milk is a perishable product that cannot be stored on farm for very long. Hence dairy farmers are in a weak bargaining position with the processors who supply the large supermarkets'. She went on to note that 'Fresh milk is not a commodity like hay, wheat, other grains, cotton, lamb, wool and other things that can be stored and sold at a better price or a lower price'.⁹⁷

Contracting arrangements

- 2.42 Of particular concern to many inquiry participants was the nature of contracting arrangements between farmers and processors. Some participants considered that milk supply contracts generally favour processors and are a result of the imbalance of bargaining power between the parties.
- 2.43 Mr Shaughn Morgan, Chief Executive Officer, Dairy Connect, for example, called agreements between farmers and processors 'manifestly unfair' and said that the result is that farmers struggle to achieve a price for their milk above the cost of production:

I believe that what has occurred in previous times is that the milk supply agreements that have been entered into by the dairy farmer as the producer, and the processor, has been manifestly unfair. There are clauses in there that you would consider to be unconscionable under any terms of the law. However, because of the bargaining power that is imposed it has been very difficult to be able to get a fair farm gate price above the cost of production that would enable them to ensure that their bills are paid on a monthly basis, school fees, food on the table, let alone such things as fodder and other commodities that they require on the farm itself.⁹⁸

⁹⁴ Evidence, Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 35.

⁹⁵ Submission 18, NSW Farmers' Association, p 7.

⁹⁶ Evidence, Mr Scott Hansen, Director General, NSW Department of Primary Industries, 16 November 2018, p 3.

⁹⁷ Evidence, Ms Sue Boyd, Dairy Farmer, 12 November 2018, p 24.

⁹⁸ Evidence, Mr Shaughn Morgan, Chief Executive Officer, Dairy Connect, 19 November 2018, p 9.

- 2.44** Dairy Connect commented that milk supply agreements are overly complex and called for changes to the way they are made:

[Dairy farmers] are often provided with milk supply agreements that are overly complex, in both the clauses contained therein but also as to the length and number of contractual documents to which they are provided. They are provided with a price letter, a milk supply agreement and a supply handbook. The length and type of the milk supply agreements needs to be amended and independent advice provided to the producer in a timely fashion by a third party.⁹⁹

- 2.45** The NSW Farmers' Association expressed similar concerns, saying that 'farmers are faced with complex contracts that differ widely between each processor'. They noted that 'this makes it difficult for a farmer to identify benefits in switching processors—if they even can—and increases the lack of transparency in the relationship'.¹⁰⁰

- 2.46** A number of farmers noted their concerns regarding milk supply contracts. Mr Graham Bird, Dairy Farmer, Hannam Vale, for example, commented of that they 'are not really contracts, they are one way. It is a master-servant relationship, the way I see it. We are forced to sign a contract, virtually. We do not have any say in that contract'.¹⁰¹

- 2.47** Dairy farmer Mr Murray Sowter asserted that contracts are not negotiated, but are dictated entirely by processors:

Many of the dairy farmers in NSW have individual contracts with processors. These contracts are prepared by the processors and presented to the farmers for signing with no negotiation or consultation on the terms and conditions. If you fail to sign the processor will accept your supply but will withhold a percentage of the existing farmgate price for non-compliance.¹⁰²

Lack of price certainty for dairy farmers

- 2.48** Some participants identified that the lack of price certainty in contracts can pose considerable challenges for dairy farmers.

- 2.49** Mr Bezzi pointed out that 'at the moment processors can retrospectively step down the amount of money they pay to farmers'.¹⁰³ He commented that the establishment of the ACCC's recent inquiry into the dairy industry was in part due to decisions made by major processors to retrospectively reduce the price they paid to farmers.¹⁰⁴

- 2.50** Candelo Dairy Farmer, Mr Tim Cochrane explained that under current contracting arrangements, farmgate prices can be changed by processors every 12 or six months and that farmers are unable to effectively negotiate these prices to ensure they reflect costs:

⁹⁹ Submission 24, Dairy Connect, pp 3-4.

¹⁰⁰ Submission 18, NSW Farmers' Association, p 7.

¹⁰¹ Evidence, Mr Graham Bird, Dairy Farmer, Hannam Vale, 19 November 2018, p 24.

¹⁰² Submission 3, Mr Murray Sowter, p 7.

¹⁰³ Evidence, Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 41.

¹⁰⁴ Evidence, Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 35.

We get a price update every six months. We get a 12-month pricing to start with and every six months we have got six or 12 months of pricing at the best in front of us. We are always given that next six months in advance.

... we cannot negotiate that price. We are stuck with these prices now for 12 months, our input costs, and we have no ability to negotiate that price. We gave our 90-day notice at the end of September to say we were looking at options for our milk company.¹⁰⁵

- 2.51** Ms Debra Polson, Oxley Island Dairy Farmer, said that processors can set their price each six months and that it is not possible for farmers or collective bargaining groups to negotiate on price in these timeframes:

It is nearly December so the window of opportunity to negotiate is very small because each six months with Parmalat you get a price. Can you have a massive negotiation and collective bargaining every six months? No way, when you are struggling with drought, when you are working very diligently.¹⁰⁶

- 2.52** Dyers Crossing Dairy Farmer, Ms Jacqui Woolnough, expressed her frustration with the lack of price certainty. She said that 'we do not want to know that "for the next six months we have decided that because of world market"—even though our milk goes to the fresh milk market—"it [the farmgate price] is all going to drop." We just find that ludicrous. Trying to explain to a bank manager these situations is not easy'.¹⁰⁷

Transparency and access to information

- 2.53** Inquiry participants commented that the relationship between the farmers and processor is characterised by information asymmetry.

- 2.54** DFMC said that farmers do not have the same market information as is available to processors, including the prices, terms and conditions that they can achieve for their production:

Farmers are not necessarily aware of the prices, terms and conditions that they can achieve for their production and do not have the same market information as the processor. The processor knows what they are paying others in the area and often apply confidentiality clauses to keep it that way. Even if the farmer's market knowledge was the same or similar to the processor's, the farmer generally only has one processor to choose from whereas the processor can choose from many farmers.¹⁰⁸

- 2.55** One participant noted that farmers have 'no idea' how processors determine their prices, saying that 'it is very confusing and frustrating how prices are set. There is no transparency from farm to retail. As a farmer, we have no idea how our processor determines their price'.¹⁰⁹

- 2.56** Mr Robert Miller of Narrawilly Farm said that the lack of transparency across the supply chain leaves farmers in a weakened position at any negotiation:

¹⁰⁵ Evidence, Mr Tim Cochrane, Dairy Farmer, Candelo, 12 November 2018, p 42.

¹⁰⁶ Evidence, Ms Debra Polson, Dairy Farmer, Oxley Island, 19 November 2018, p 30.

¹⁰⁷ Evidence, Ms Jacqui Woolnough, Dairy Farmer, Dyers Crossing, 19 November 2018, p 28.

¹⁰⁸ Submission 22, Dairy Farmers Milk Co-op, p 5.

¹⁰⁹ Submission 6, Name suppressed, p 1.

Transparency in a value chain is vital for an industry's success and innovation. The dairy industry is characterised by poor communication plus farmers' poor access to information about pricing at every stage of the value chain. Farmers do not have adequate information about key variables in their industry (e.g. processor-supermarket milk supply contracts such as for \$1-litre milk; processor-logistics costs; etc.), and, hence, are in a weakened position at any negotiation stage because of gatekeeping of information.¹¹⁰

Farmer-retailer supply arrangements

2.57 The relationship between farmers and processors was largely characterised throughout the inquiry as one of imbalanced power dynamics. Some inquiry participants asserted that a direct relationship between farmers and retailers for the supply of milk could be of more benefit to farmers.

2.58 Dairy Connect pointed out that it is not accepted practice in Australia for farmers to have direct relationships with retailers, but that this has been proven to be effective overseas:

This is a solution involving a direct relationship between farmers and supermarkets which has shown to be effective. While this is not accepted practice in Australia, a small number of dairy farmers have provided milk directly to the supermarket. An example of this is the Woolworths 'Farmers Own' brand.¹¹¹

2.59 Dairy Connect used the example of Tesco in the United Kingdom and explained that a relationship between farmers and supermarkets can provide a stable source of income and directly support farmers:

In some cases, farmers have a direct trading relationship with supermarkets. For instance, in the United Kingdom, the supermarket Tesco has formed a Tesco Sustainable Dairy Group (TSDG) which aims to directly support their farmers by guaranteeing a market leading price. Importantly, this price is given irrespective of the price at which the milk is sold to the consumer and therefore provides a stable source of income.¹¹²

2.60 Dairy Connect noted that Woolworths is an example of this through their Farmers Own brand. Dairy Connect highlighted a Woolworths statement noting that the direct relationships that Woolworths has with farmers, instead of via a processor or a Co-op, ensures that farmers are getting a good deal every time:

As is stated on the Woolworths website:

We have direct relationships with our Farmers and not via a processor or a Co-op to ensure they are getting a good deal every time. Our goal is to pay our Farmers a good price for their milk that allows them to continue to produce quality milk. We pick up milk from their farms and transport directly to be processed so we know exactly where the milk comes from that goes into Farmers' Own milk. Our farmers are engaged in the

¹¹⁰ Submission 13, Narrawilly Farm, p 4.

¹¹¹ Submission 24, Dairy Connect, p 3.

¹¹² Submission 24, Dairy Connect, p 3.

branding and feel a sense of belonging to the brand because it is their milk that goes into each bottle.¹¹³

- 2.61** Mr Paul Harker, Director, Fresh Foods, Group Replenishment and Buying Support, Woolworths, said that historically, Woolworths has not had a relationship with dairy farmers, but that the Farmers' Own brand was introduced a number of years ago and now accounts for 5 per cent of sales:

Woolworths has often tried to deal directly with producers in this country but that is always been the case where it has involved manufacturing. Our meat and fruit and vegetable procurement has obviously always been direct with farmers. Milk has not been the case because milk is processed and/or manufactured and we are not processors or manufacturers. Historically, we have not had relationships with dairy farmers but we did introduce a range of milk a number of years ago now called Farmers' Own where we procured the milk directly and paid the processor a processing fee to process that milk. We started in New South Wales and we are now in all States of Australia. It represents about 5 per cent of our category sales.¹¹⁴

- 2.62** Mr Christian Bennett, Head of Government Relations and Industry, Woolworths, said that 'there are 21 farmers involved in Farmers' Own and those relationships are strong'. He noted that the Farmers' Own brand of milk sells for \$1.50 per litre in retail stores.¹¹⁵

- 2.63** Mr Tim Bale, Dairy Farmer and Chairman, Taree Collective Bargaining Group, pointed out that the Manning Valley Fresh group—a sub-group of the Taree Collective Bargaining Group that supplies Woolworths for the Farmers Own brand—receives a 4 cent per litre provenance premium. Mr Bale told the committee that 'when we first commenced we were getting 4¢ more than the average local farmer'.¹¹⁶

- 2.64** The committee was hosted on a site visit by a Manning Valley Fresh group farmer that supplies Woolworths as part of the Farmers' Own line of milk. The committee heard that the arrangement was generally beneficial and that the assurance of revenue has allowed for increased investment in the farm's productivity.¹¹⁷

- 2.65** Woolworths commented that it is open to expanding the Farmers Own arrangements but pointed out that meaningful expansion of the product is dependent on a number factors. These include the existence of consumer demand, as well as expanding the capability to manage the relationships with farmers and the management of commercial risks:

Woolworths is open to expanding Farmers' Own arrangements. To do so in a meaningful fashion, however, would of course require consumer demand for the Farmers' Own milk to continue to grow. Expansion is also not without its complexities – including further developing our existing business model to recruit and manage a

¹¹³ Submission 24, Dairy Connect, p 3.

¹¹⁴ Evidence, Paul Harker, Director, Fresh Foods, Group Replenishment and Buying Support, Woolworths, 26 November 2018, p 15.

¹¹⁵ Evidence, Mr Christian Bennett, Head of Government Relations and Industry, Woolworths, 16 November 2018, p 17.

¹¹⁶ Evidence, Mr Tim Bale, Dairy Farmer, Chairman, Taree Collective Bargaining Group, 19 November 2018, p 2.

¹¹⁷ Correspondence, Mr Adrian Drury, Dairy Farmer, 3 December 2018.

larger number of farmer relationships (with related resourcing requirements) as well as managing other related commercial risks. All such considerations remain under active consideration by Woolworths.¹¹⁸

Committee comment

- 2.66** The committee considers that the relationship between dairy farmer and processor is characterised by an imbalance of power that gives the processor a considerable advantage. It is clear to the committee that this is preventing farmers from negotiating a fair price for their milk supply.
- 2.67** Without any effective bargaining power, a farmer's place in the value chain is one of pure price taker. Evidence received by the committee suggests that farmers have little or no practical ability to influence prices in order that they adequately cover the cost of production.
- 2.68** The committee is particularly concerned by a number of features of milk supply agreements identified by inquiry participants. Farmers are not given certainty of even a base price for their milk supply across the life of their agreement with processors, which greatly inhibits their ability to plan for the future. Farmers also do not have access to the information they need to make informed decisions and are forced to deal with overly complex contracts that are difficult to compare.

Finding 2

That there is a power imbalance between New South Wales dairy farmers and processors that impacts significantly on the viability of dairy farming businesses.

- 2.69** The committee considers that action must be taken as a matter of priority to empower farmers in their negotiations with processors. The committee's recommendations for achieving this are outlined in chapter 3.
- 2.70** The committee notes that the ACCC recently found that almost all contracts for the supply of private-label milk allow processors to pass through movements in farmgate prices to supermarkets. However, the committee is concerned that this is not occurring. The committee considers that a more direct relationship between farmers and retailers may allow for better communication of how changes in the cost of production for farmers can be reflected in prices across the value chain.

Falling margins for farmers

- 2.71** A number of participants commented on the lack of incremental increases to the farmgate price of milk in recent years. The committee heard that the increasing cost of production, driven by input costs like energy, fodder and labour, are not reflected in a corresponding increases in farmgate prices. Many participants asserted that this is resulting in contracting margins for

¹¹⁸ Answers to questions on notice, Woolworths Group, 5 December 2018, p 1.

farmers, reducing their ability to prepare for drought conditions and putting businesses at significant risk.

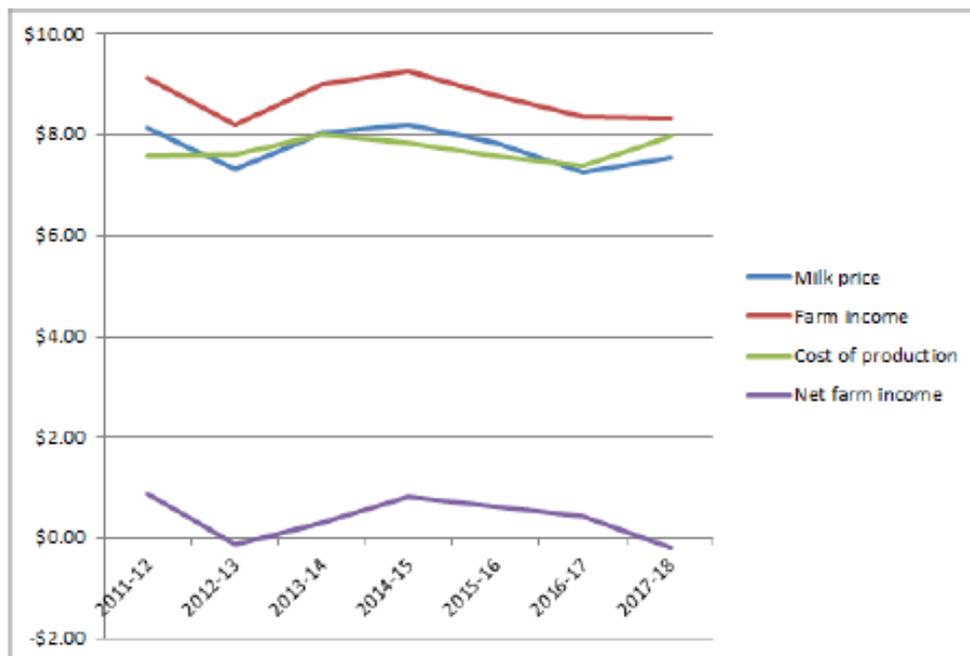
2.72 The NSW Farmers' Association noted that prices dropped sharply after deregulation in 2000 and that, with the exception of a lift in prices from 2007 to 2008, there has been little to no improvement in the past decade. The Association said that this is problematic given input costs like energy have increased significantly:

Farmers' profitability was affected by changes to the milk price. The milk price fell heavily after deregulation, dropping below 30 cents per litre. Although prices lifted in 2007 and 2008 to 45 and 55 cents per litre—an improvement from the regulated price—there has been little to no improvements in price over the past decade. This is problematic when one recognises the significant increases in energy and other inputs.¹¹⁹

2.73 Dairy Connect asserted that that 'since deregulation the farmgate price of milk has not kept pace with CPI or inflation' and said that farmgate prices are 'falling behind significant input price increases such as energy, feed, labour'.¹²⁰

2.74 This is reflected in the submission made by NSW Government. The government highlighted analysis done as part of its Dairy Farm Monitor Project, showing that 2017-18 was the worst year for net farm income in New South Wales since 2011-12. As shown in Figure 5, net farm income has dropped into negative.¹²¹

Figure 5 Average NSW Dairy Farm Monitor Project farm performance (\$/kg milk solids)



Source: Submission 20, NSW Government, p 6.

¹¹⁹ Submission 18, NSW Farmers' Association, p 6.

¹²⁰ Submission 24, Dairy Connect, p 8.

¹²¹ Submission 20, NSW Government, pp 5-6.

- 2.75** The government said that the results indicate that the performance of New South Wales dairy farms is worse than in any other states and noted that the downturn in profits is largely attributable to increasing feed costs, impacted by drought conditions:

A comparison of DFMP results from all regions reveals that dairy farm business performance in NSW was worse than in any other state. The downturn in profit is largely due to an increase in purchased feed costs, with the drought and higher grain and fodder prices having a major impact.¹²²

- 2.76** The government also pointed to analysis from the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) from 2016-17, indicating that dairy farmers had the lowest farm business profit of all broadacre industries reported in the last three years:

The Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) reports that as at 2016-17 dairy farms had the lowest farm business profit of all broadacre industries reported, for the last three years. They also had the lowest rate of return on capital (excluding capital appreciation) for the last three years and the lowest rate of return including capital appreciation.¹²³

- 2.77** Dairy NSW noted that in the most recent *Situation and Outlook Report*¹²⁴ from Dairy Australia, highlighted data from the annual Dairy Farm Monitor Project, that indicated that the average earnings before interest and tax (EBIT) halved compared to the previous year, falling from \$157,000 per farm to \$83,200 per farm, with the average net farm income decreasing to just \$6,400.¹²⁵

- 2.78** Dairy Connect noted that 'currently the farmgate price received by farmers by selling their milk supply to processors does not, generally, cover the costs of production in the operations of a dairy farming enterprise'.¹²⁶

- 2.79** The downward trend in farm margins was also reflected in the evidence given by dairy farmers who participated in the inquiry process. Candelo Dairy Farmer, Mr Tim Cochrane, for example commented that farmgate prices are the same as were paid in 2011, while input costs have continued to increase:

The farmgate price of 50¢ to 53¢ litre is the same as was paid in 2011. But the cost of production has increased, along with the consumer price index and inflation, which includes wages, fuel and energy costs, and is exacerbated by increased fodder costs and less fodder availability due to the current drought'.¹²⁷

- 2.80** Dairy farmer Mr Gregory Schofield, said that 'In terms of income received our average milk price has declined from \$0.55 cents per litre some three years ago now down to \$0.52 cents per litre at present'.¹²⁸

¹²² Submission 20, NSW Government, p 6.

¹²³ Submission 20, NSW Government, p 5.

¹²⁴ Dairy Australia, *Situation Outlook Report*, October 2018.

¹²⁵ Submission 2, Dairy NSW, p 1.

¹²⁶ Submission 24, Dairy Connect, p 2.

¹²⁷ Evidence, Mr Tim Cochrane, Dairy Farmer, Candelo, 12 November 2018, p 38.

¹²⁸ Submission 8, Mr Gregory Schofield, p 2.

- 2.81** NSW Farmers' Association noted that the long term viability of the dairy industry requires greater margin maximisation for farmers. They said that increased margins will allow greater investments into the industry as well as better risk preparedness:

To ensure sufficient farm profitability, dairy farmers reduce on-farm costs and activities considered non-essential to everyday milk supply. However, short term cost savings can have long term effects on the industry. There is an urgent need for greater margin maximisation to ensure that cost cutting does not inhibit the sustainability of the industry or the ability of farmers to manage investments in their herd. Increased margins will allow for greater investments into the industry and better risk preparedness.¹²⁹

Cost of production versus farmgate price

- 2.82** The committee heard that the estimated cost of production for dairy farmers in New South Wales ranged from 50c to 80c per litre of milk produced, depending amongst other factors on drought impact. However, the average estimated farmgate price for milk paid to dairy farmers in New South Wales who supply processors is between 49c to 53c per litre.

- 2.83** Mr Greg Schofield, Dairy Farmer, Robertson, indicated that his estimated cost of production is at least 70c per litre:

A rough, quick figure, it would be 70¢-plus per litre. That is not even considering a 5 per cent return on capital. The dairy industry is quite expensive to be in. You have stainless steel, you have cattle and they should be replaced upwards of every five years. Five per cent will not just quite cut it. It has got to be at least 70¢ as a base price.¹³⁰

- 2.84** Mr Robert Miller, Milton Dairy Farmer, Narrawilly Farm, advised that his cost of production during the drought is in vicinity of 80c per litre and he is receiving 51c per litre at the farmgate.¹³¹

- 2.85** Similarly, Mr Peter Middlebrook, Dairy Farmer, Finley, highlighted the discrepancy between their cost of production which is approximately 65c to 70c per litre and their farmgate of 45c per litre.¹³²

- 2.86** Mr Phil Ryan, Bega Dairy farmer, stated:

I am currently getting paid roughly 50¢ a litre for the milk I produce. The cost of production is probably something in the order of 45¢ to 48¢ a litre on that milk, but earlier this year my cost of production would have been in excess of a dollar a litre for some months. While technically I am making money at the moment, over the balance of the year I have lost a lot of money.¹³³

- 2.87** Mr Tim Bale, Dairy Farmer and Chairman, Taree Collective Bargaining Group, indicated that the average farmgate price for the Manning Valley district is 53c per litre, and stated that his cost of production has increased over recent years:

¹²⁹ Submission 18, NSW Farmers' Association, p 4.

¹³⁰ Evidence, Mr Greg Schofield, Dairy Farmer, Robertson, 12 November 2018, p 4.

¹³¹ Evidence, Mr Robert Miller, Dairy Farmer, Milton, 12 November 2018, p 10.

¹³² Evidence, Mr Peter Middlebrook, Dairy Farmer, Finley, 12 November 2018, p 17.

¹³³ Evidence, Mr Phil Ryan, Dairy Farmer, Bega, 16 November 2018, p 49.

My cost of production is around 49¢ to 50¢ a litre. However, it has risen a lot over the last couple of years and it has risen a lot over the last few months. I have done a calculation based on the new grain price and new hay prices for next year. I believe it will lift my costs by about 8¢ a litre and put me up to about 57¢ a litre.¹³⁴

2.88 Ms Debra Polson, Dairy Farmer, Oxley Island, suggested 60c per litre farmgate price may see her farm break even.¹³⁵

2.89 As demonstrated in Figure 5 above, the cost of production has risen above the farmgate milk price.

Drought preparedness

2.90 A number of inquiry participants noted that the lack of increases in farmgate prices and falling margins are limiting farmers ability to be adequately prepared for drought conditions, putting many businesses at risk.

2.91 The NSW Farmers' Association noted that drought conditions have tightened already tight margins for New South Wales dairy farmers.¹³⁶

2.92 Bega Dairy Farmer Mr Phil Ryan explained that that dairy farmers do not earn sufficient surplus during good times to put away and draw on in times of drought:

Ideally, I should have a farm management deposit account, which is the financial vehicle that the Government has designed for farmers to use to put money away in during good times and to draw on in bad times. We do not have, as dairy farmers, that surplus in good times to put away to draw on so that we do not need charity and subsidies and these sorts of discussions.¹³⁷

2.93 RH Boyd & Sons expressed similar concerns, noting that 'due to low milk prices since deregulation we have no reserves of funds to put away or surplus silage stocks put away for dry periods like we have just experienced throughout 2018'.¹³⁸

2.94 Mr Robert Miller of Narrawilly Farm said that 'a milk price that in good times fails to cover costs of production precludes farmers from being able to adequately prepare for drought, to innovate, and to allow for intergenerational transfer of farms'.¹³⁹

2.95 Mr Greg McNamara, Acting Chief Executive Officer and Chairman, Norco Co-operative Limited, asserted that current conditions have reduced the sector's resiliency dramatically:

¹³⁴ Evidence, Mr Tim Bale, Dairy Farmer and Chairman, Taree Collective Bargaining Group, 19 November 2018, p 2.

¹³⁵ Evidence, Ms Debra Polson, Dairy Farmer, Oxley Island, 19 November 2018, p 26.

¹³⁶ Submission 18, NSW Farmers' Association, p 4.

¹³⁷ Evidence, Mr Phil Ryan, Dairy Farmer, Bega, 16 November 2018, p 49.

¹³⁸ Submission 12, RH Boyd & Son Pty Ltd, p 2.

¹³⁹ Submission 13, Narrawilly Farm, p 2.

The current debacle of the lack of incremental increases in price and the incremental increases in on-farm costs coupled with the drought has reduced the resilience of the sector dramatically.¹⁴⁰

- 2.96** Although a considerable number of participants commented on the pressure that drought conditions have placed on farmers, several pointed out that it is important to separate structural issues within the sector from the impact of drought.
- 2.97** Mr Salardini, for example, commented that there is a need to divorce issues around competition from those relating to drought. He said that 'the drought merely demonstrates how the financial resilience has been sucked out of the sector, particularly dairy farmers'.¹⁴¹
- 2.98** Similarly, Mr Ryan, said that 'this is not simply a drought issue. If the long term price received by farmers was sustainable, we would be able to have cash reserves in Farm Management Deposit accounts from our good years'.¹⁴²
- 2.99** Dairy Farmer and Chairman, Taree Collective Bargaining Group, Mr Tim Bale, said 'farmers need a major lift in the base price. We do not need any drought levies. All the drought has done is bring this to the fore. It has not caused the problem'.¹⁴³

Committee comment

- 2.100** The committee recognises that recent drought conditions have put New South Wales dairy farmers in in a very difficult position, with many struggling to remain viable. The committee considers that dairy farmers need and deserve assistance through these tough times.
- 2.101** It is clear to the committee that the drought has not brought about, but hastened, the push towards collapse of many dairy farms in New South Wales.
- 2.102** It is also clear in the evidence before the committee that over the past 10 years, farmgate prices have not kept pace with increases in the costs of production. This means that farmers are operating on ever slimmer margins and are struggling to remain viable.
- 2.103** The committee is particularly alarmed by the results of the NSW Government's Dairy Farm Monitor Project that show the average net farm income is the lowest since the project began, having dropped into negative. It is also concerning to note that the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) reported in 2016-17 that dairy farmers had the lowest farm business profit of all Australian broadacre industries.
- 2.104** Operating at these margins, dairy farmers are unable to prepare themselves for drought conditions. Farmers also find themselves without sufficient profit to allow for reinvestment or to grow their businesses.

¹⁴⁰ Evidence, Mr Greg McNamara, Acting Chief Executive Officer and Chairman, Norco Co-operative Limited, 16 November 2018, p 24.

¹⁴¹ Evidence, Mr Ash Salardini, Chief Economist, NSW Farmers' Association, 16 November 2018, p 13.

¹⁴² Submission 16, Mr Phil Ryan, p 1.

¹⁴³ Evidence, Mr Tim Bale, Dairy Farmer, Chairman, Taree Collective Bargaining Group, 19 November 2018, p 3.

- 2.105** The committee considers that action needs to be taken to ensure that increases in the cost of production can be passed through the value chain through higher farmgate prices, ensuring adequate margins for farmers. The committee's recommendations for supporting and empowering farmers to achieve a better price at the farmgate are discussed in chapter 3.
- 2.106** We find that the farmgate price for raw milk currently being paid to New South Wales dairy farmers is inadequate to cover their cost of production and allow for a reasonable profit margin, irrespective of drought conditions.
- 2.107** Moreover, this is exacerbated by the uncertainty within the existing contract structure, which also fails to give farmers the confidence to make appropriate investments to upgrade or improve their practices, which would also yield productivity gains.
-

Finding 3

That analysis done as part of the Dairy Farm Monitor Project, shows that 2017-18 was the worst year for net farm income in New South Wales since 2011-12.

Finding 4

That the farmgate price for raw milk currently being paid to New South Wales dairy farmers is inadequate to cover their cost of production and allow for a reasonable profit margin, irrespective of drought conditions.

Personal impact on farmers

- 2.108** Throughout the course of the inquiry, the committee heard that the impact on farmers of the state of the industry has been considerable. The committee heard that the stress of trying to maintain viability with shrinking returns is effecting the mental health of farmers. Farmers also raised concerns that younger generations may have little incentive to continue working in the industry.
- 2.109** Mr Phil Ryan, Dairy Farmer, Bega, explained his perspective of the current state of the industry. He said that it has become 'somewhat standard to accept that dairy farmers do not make a reasonable return on equity or their assets, that we do not make a reasonable return on the amount of hours that we work each and every day'.¹⁴⁴ Mr Ryan continued that 'there is clearly a problem, as everybody has acknowledged. Farms are going out of business, farms are selling cows, farms are going broke'.¹⁴⁵
- 2.110** Brundee Dairy Farmer, Ms Tracy Russell, explained some of the challenges she has faced in keeping her business viable. She said that her margins leave no room for anything to go wrong. Ms Russell commented on the difficult decisions she has been forced to make and told the committee of the emotional impact this has had:
-

¹⁴⁴ Evidence, Mr Phil Ryan, Dairy Farmer, Bega, 16 November 2018, p 46.

¹⁴⁵ Evidence, Mr Phil Ryan, Dairy Farmer, Bega, 16 November 2018, p 47.

There is no room within our businesses to even have anything go wrong. I cannot afford to have an animal get sick because I cannot afford to get the vet to do what would have been a \$400 operation. I have to make a decision. If a cow has a twisted stomach, for example, I do not even operate anymore. I have to keep that cow alive and put her on the next truck that leaves the farm. It is heartbreaking. I sold a cow the other day that had had 12 calves. That cow deserves the right to stay on my farm in a grassy paddock down the back and live out her days. The only reason I had to sell her is because I had not got her in calf yet and she was not giving enough milk to pay for the feed that I have to feed her to keep her alive. These are things that might seem like an emotional response, but this is how dairy farming works. There has to be a reason that we are able to get up in the morning and go to work. I enjoyed milking that cow, and I can tell you I shed quite a few tears.¹⁴⁶

- 2.111** Ms Narelle Polley, Dairy Farmer, Kimbriki, explained that a lot of generational dairy farmers struggle with the mental toll of feeling as if they have failed, where previous generations have managed to keep farms viable. She pointed out that it is not through a lack of commitment that dairy farming businesses are failing:

The sad part for a lot of farmers is that it has gone through the generations and it is a mental thing as well. Our forefathers survived, they got through tough times, why not us? Are we failures? We are not. We have worked our butts off seven days a week. But mentally it is getting to the farmers. If we give up, are we failures? Honestly, we are not because we have put our heart and soul into it.¹⁴⁷

- 2.112** Mr Trevor Middlebrook, Dairy Farmer at Gloucester, said that in his representative roles in the industry he has seen 'a lot of people end up in very, very unfortunate positions'. Mr Middlebrook pointed out that in the agricultural sector, one farmer every four days is lost to suicide:

If this keeps up and we had to sell anything that would make our enterprise inefficient, we might as well get out completely. There goes 100 years of dairying and a lot of broken hearts. Through my representative roles I have seen a lot of people end up in very, very unfortunate positions. I am not in that mindset and I am not making those threats. But it is sad and I have seen a lot of my very good friends end up where they do not want to be in very broken families for generations to come. In the agricultural sector we are losing one farmer every four days to suicide. That is a sad state of affairs.¹⁴⁸

- 2.113** The NSW Farmers' Association highlighted their real concerns about the mental health of dairy farmers, asserting that it is vital that mental health and support service are available to farmers:

The issues impacting the dairy industry have had a serious adverse impact on participants' sentiment and on the mental health of some dairy farmers. These impacts cannot be quantified. Farmers have reported a clear psychological impact of one dollar per litre milk, as they have seen retailers devalue their product and the price not reflect the cost and skill involved in its production. It is vital that mental health and support services are available so farmers can be supported.¹⁴⁹

¹⁴⁶ Evidence, Ms Tracy Russell, Dairy Farmer, Brundee, 12 November 2018, p 10.

¹⁴⁷ Evidence, Mrs Narelle Polley, Dairy Farmer, Kimbriki, 19 November 2018, pp 31-32.

¹⁴⁸ Evidence, Mr Trevor Middlebrook, Dairy Farmer, Gloucester, 19 November 2018, p 21.

¹⁴⁹ Submission 18, NSW Farmers' Association, p 14.

Future generations

2.114 Of particular concern to a number of inquiry participants was the lack of incentives for future generations of dairy farmers in New South Wales to continue working in the industry.

2.115 As highlighted by Mr Barry Irvin, Executive Chairman, Bega Cheese, unlike a number of other agricultural industries, dairy farming is still largely dominated by family businesses.¹⁵⁰ The committee heard from a number of generational dairy farmers who noted that the next generation may be reluctant to continue working in an unprofitable industry.

2.116 Mr Greg Schofield, Dairy Farmer at Robertson, for example, said that although he is a proud intergenerational farmer, the lack of profits to be made has made him reluctant to pass his business on to the next generation:

I'm a proud intergenerational farmer though I struggle to talk with my children and their children about the lack of profit to be made within this business. How could I possibly hand on this business to the next generation knowing the difficulties we've been facing? There is simply no money available to pay my son's a real wage in the business let alone profits available to even think about succession within the family.¹⁵¹

2.117 Mr Schofield went on to comment that in the case of Schofield Holstein dairy farm, the business operators are unable to draw a wage and the younger generation of farmers is paid \$300 per week. He said that this was a disincentive for younger generations to continue to work in the business:

Today as we sit here, Schofield Holstein is run by two brothers and employs my two sons. The two brothers' wages are zero. My two sons, who are 28 and 26, receive a net of \$300 per week. How can I tell those sons when their mates are pulling upwards of \$1,500 a week that this is a good business to work in? In other words, we had to reduce costs during the winter months to try to cover our more expensive bills.¹⁵²

2.118 Mr Middlebrook commented that he is unable to engage the next generation in the family business, saying that 'my parents recently passed on and now I am the sole director of our family business. I would love to engage our children in that but all we can do is keep them in wages at the moment'.¹⁵³

2.119 Mr McNamara, Norco Co-operative Limited, said that what the incoming generation of farmers wants is a viable industry that they believe is going in the right direction:

What we are finding is that the younger generation, good farmers, do not want to go down that welfare path and do not want to be looking for handouts on a regular basis. They want a viable industry and they want to have an industry that they believe is going in a direction.¹⁵⁴

¹⁵⁰ Evidence, Mr Barry Irvin, Executive Chairman, Bega Cheese, 26 November 2018, p 25.

¹⁵¹ Evidence, Mr Gregory Schofield, Dairy Farmer, Robertson, 12 November 2018, p 3.

¹⁵² Evidence, Mr Gregory Schofield, Dairy Farmer, Robertson, 12 November 2018, p 4.

¹⁵³ Evidence, Mr Trevor Middlebrook, Dairy Farmer, Gloucester, 19 November 2018, p 21.

¹⁵⁴ Evidence, Mr Greg McNamara, Acting Chief Executive Officer and Chairman, Norco Co-operative Limited, 16 November 2018, p 24.

- 2.120** The NSW Farmers' Association said that 'the dairy industry needs to be supported for the future so that young farmers are able to enter the industry and remain profitable into the future'.¹⁵⁵
- 2.121** The government noted that its Dairy Industry Fund (DIF) provides funding for the Dairy Progression Framework, which 'provides a logical and progressive framework to guide NSW dairy youth in navigating the multitude of professional development opportunities presented by industry, for the purpose of leadership development'.¹⁵⁶

Committee comment

- 2.122** During the course of the inquiry, this committee has sought to hear directly from New South Wales dairy farmers in order to understand the challenges they are currently facing. The state's dairy farmers are clearly struggling to keep their businesses viable and it is evident to the committee that that this is taking considerable toll of their mental wellbeing.
- 2.123** The committee is concerned by the evidence given by a number of multi-generational dairy farmers who see little incentive for the next generation of dairy farmer to enter the family business. In some instances, farmers lack the profits to draw even modest wages for themselves, and business owners are understandably concerned about exposing younger generations to these pressures.
- 2.124** In the next chapter the committee has made recommendations with the aim of ensuring the survival and the long term sustainability of dairy industry in New South Wales, with a view to leaving a profitable legacy for the next generation of dairy farmers.

¹⁵⁵ Submission 18, NSW Farmers' Association, p 13.

¹⁵⁶ Submission 20, NSW Government, p 13.

Chapter 3 Initiatives to sustain the New South Wales dairy industry

This chapter outlines the evidence received regarding a number of key initiatives aimed at addressing some of the most pressing challenges facing the New South Wales dairy industry. Firstly, it highlights the need for a national approach to industry reform, including the implementation of the Mandatory Code of Conduct as recommended by the Australian Competition and Consumer Commission (ACCC). It then discusses the need for an updated NSW Dairy Industry Plan. Next, this chapter considers the need for an independent advocate for New South Wales dairy industry and discusses possible functions the office might undertake. Finally, it considers the role for the NSW Government in research, development and extension for dairy farmers.

National approach

- 3.1** As discussed in chapter 1, New South Wales dairy farmers participate in an international dairy market and a deregulated domestic market.¹⁵⁷ The committee heard from some inquiry participants that due to the nature of the industry, many reform initiatives will necessarily involve collaboration at a national level.
- 3.2** The NSW Government pointed out that 'a number of key economic challenges to the industry, such as ensuring fair trading between retailers, processors and farmers, requires a national approach and needs to be led by industry'.¹⁵⁸
- 3.3** A key component of national reform in the dairy industry is the implementation of recommendations from the ACCC's inquiry into the dairy industry. As outlined in chapter 1, the final report was released in April 2018 and contained eight recommendations.¹⁵⁹
- 3.4** Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, ACCC, noted that the most significant recommendation to come out of the inquiry is the development of a Mandatory Code of Conduct for the dairy industry:

[The ACCC] made eight recommendations for improved transparency and allocation of risk in the commercial relationship between dairy processors and farmers. The most significant recommendation was that a mandatory code of conduct be introduced to address these market failures.¹⁶⁰

Mandatory Code of Conduct

- 3.5** Ms Gabrielle Ford, General Manager, Agriculture, Advocacy and International, ACCC, said that the key aim of the Mandatory Code of Conduct (the Mandatory Code) is to 'improve

¹⁵⁷ Submission 20, NSW Government, p 8.

¹⁵⁸ Submission 20, NSW Government, p 3.

¹⁵⁹ Australian Competition and Consumer Commission, *Dairy inquiry: Final report*, April 2018.

¹⁶⁰ Evidence, Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 35.

competition between dairy processors'.¹⁶¹ Ms Ford outlined the key issues the Mandatory Code seeks to address:

First of all is to address concerns about aspects of milk supply arrangements between processes and farmers that we think unreasonably restrict farmers' ability to switch between processors in relation to things like loyalty bonuses and the timing of how they are offered and paid. We have some concerns about the ability of processors to unilaterally change key trading terms in milk supply contracts and we believe that could be addressed through code requirements. We think there is an absence of effective dispute resolution mechanisms for farmers, namely, there really is not a mechanism at the moment. We would be eager to see one developed underneath the mandatory code of conduct, which is independent of processors and allows easy access by farmers to that process. There are some recommendations about conducting business between farmers and processors on a good faith basis.¹⁶²

3.6 A number of inquiry participants expressed support for the Mandatory Code. Dairy Connect, for example, asserted that it would allow dairy farmers to move from being 'price takers' to 'price negotiators'.¹⁶³

3.7 Dairy Connect commented that the Mandatory Code will not will not be 'a panacea to all the issues' of the farmer-processor relationship, but that it will 'provide a platform that is transparent, balanced and fair thus ensuring robust discussion to agree on contents of a milk supply agreement. This may provide a mechanism for an improved farm-gate price for the producer above the cost of production'.¹⁶⁴

3.8 The NSW Farmers' Association highlighted the importance of the Mandatory Code, commenting that farmers are currently at a disadvantage in negotiating with processors, and that the Mandatory Code will improve transparency, monitoring and compliance:

The mandatory code is important in improving transparency on the minimum content of milk supply contracts, monitoring compliance, and addressing breaches. Farmers are at a disadvantage in negotiating milk contracts as they are small businesses entering contracts with processors, who are generally larger companies.¹⁶⁵

3.9 Mr Shaughn Morgan, Chief Executive Officer, Dairy Connect, told the committee that the Mandatory Code is currently undergoing consultation and that a draft code is expected in December 2018 or January of 2019:

The consultation that is going on at the current time by the Federal Department of Agriculture and the draft code that will come out sometime in December, if not early January, will be an opportunity for the Government to perhaps even consider making

¹⁶¹ Evidence, Ms Gabrielle Ford, General Manager, Agriculture, Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 36.

¹⁶² Evidence, Ms Gabrielle Ford, General Manager, Agriculture, Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 36.

¹⁶³ Submission 24, Dairy Connect, p 2.

¹⁶⁴ Submission 24, Dairy Connect, p 2.

¹⁶⁵ Submission 18, NSW Farmers' Association, p 8.

some comment—if it deems it appropriate to do so—in terms of the conditions that may be put into the draft code.¹⁶⁶

- 3.10** Mr Bezzi said that if properly implemented, the Mandatory Code will 'mitigate some of the negative consequences of the processor-farmer bargaining power imbalance, and may over time lead to greater competition between processors for farmers' raw milk'.¹⁶⁷
- 3.11** Ms Ford commented that the ACCC would be assisting the Commonwealth Department of Agriculture and Water Resources in the development of the Mandatory Code and stressed that the ACCC believes that the Mandatory Code 'should not introduce a high level of regulatory burden into the industry and costs into the industry'.¹⁶⁸
- 3.12** The NSW Government noted that formal consultation across Australian dairy farming regions has begun at the Commonwealth level.¹⁶⁹ Mr Scott Hansen, Director General, NSW Department of Primary Industries, commented that the government will make sure that its consideration of the outcomes of the work of this committee 'can be fed into discussions that the Federal Government will be having ... around what it does with its code of conduct...'¹⁷⁰
- 3.13** Mr Tim Bale, Dairy Farmer, Chairman, Taree Collective Bargaining Group, noted that measures such as the Mandatory Code of Conduct, have the potential to help, but that ultimately, what farmers need most urgently is money:

If we appoint someone like that [an independent Commissioner], or even if we have a mandatory code and all those things, if there is no enforcement, it does not get us anywhere. All these things can help, but if people just give us piecemeal speaking and do not support these things then we are not going to get anywhere. It all comes back to what farmers need now, which is cash. They just need money.¹⁷¹

Collective bargaining

- 3.14** A number of inquiry participants noted that collective bargaining is important to farmers' ability to secure favorable contacts with processors but that farmers' ability to establish collective bargaining groups (CBGs), and processors' willingness to engage with them, is limited.
- 3.15** Dyers Crossing Dairy Farmer, Ms Jacqui Woolnough—a member of the Taree Collective Bargaining Group—for example, expressed the difficulty CBGs have in arranging to meet with processor representatives who have the power to negotiate on price:

I have actually spoken at a meeting and stood up to the representative and asked, "Could you please have somebody that has the power to talk about price to come to the

¹⁶⁶ Evidence, Mr Shaughn Morgan, Chief Executive Officer, Dairy Connect, 19 November 2018, p 14.

¹⁶⁷ Evidence, Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 35.

¹⁶⁸ Evidence, Ms Gabrielle Ford, General Manager, Agriculture, Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 36.

¹⁶⁹ Submission 20, NSW Government, p 14.

¹⁷⁰ Evidence, Mr Scott Hansen, Director General, NSW Department of Primary Industries, 16 November 2018, p 7.

¹⁷¹ Mr Tim Bale, Dairy Farmer, Chairman, Taree Collective Bargaining Group, 19 November 2018, p 5.

meeting? We are willing, at any time. Please get somebody to come." They just say, "We will get back to you." Basically, there is no meeting with them.¹⁷²

- 3.16** Dairy farmer Sue Boyd said that 'a processor does not have to talk to you just because you are a collective bargaining group. They do not have to buy their milk from a collective bargaining group'.¹⁷³
- 3.17** Mr John Bywater, Independent Director, Dairy Farmers Milk Co-operative (DFMC), itself a CBG, said that 'some processors have actively said that they do not want to deal with groups of farmers'. He noted that this 'may be because it might give the farmers more power and processors may not want that'.¹⁷⁴
- 3.18** DFMC commented that there are now 'few working examples' of CBGs. DFMC said that that 'collective bargaining arrangements are entirely dependent upon the goodwill of the processor with whom the group is negotiating' and that 'processor still has all the power in the relationship'.¹⁷⁵
- 3.19** According to DFMC, if a processor thinks that a collective bargaining group 'is a threat or has some real 'power' or negotiating expertise, they simply say they are not interested in dealing with the collective bargaining group and deal with the individual farmers directly'.¹⁷⁶
- 3.20** Professor Ian Lean, Managing Director, Scibus, called for greater support of collective bargaining, recommending that the NSW Government 'allow for parity in negotiation – large farmer groups that will have sufficient milk under control are essential to provide some degree of parity'.¹⁷⁷
- 3.21** DFMC said that there are three key components for an effective collective bargaining group, including that the processor be bound to deal with the group:
- the CBG must be well funded and resourced;
 - the processor must be bound to deal with the CBG; and
 - in the event of a dispute (including as to price), the dispute can be resolved by binding independent expert determination.¹⁷⁸
- 3.22** DFMC recommended the implementation of a collective bargaining code that would 'incorporate a mechanism to compel processors to negotiate in good faith with the collective bargaining group and provide a mechanism to ensure the collective bargaining group is appropriately funded'.¹⁷⁹

¹⁷² Evidence, Ms Jacqui Woolnough, Dairy Farmer, Dyers Crossing, 19 November 2018, p 26.

¹⁷³ Evidence, Ms Sue Boyd, Dairy Farmer, 12 November 2018, p 24.

¹⁷⁴ Evidence, Mr John Bywater, Independent Director, Dairy Farmers Milk Co-operative, 16 November 2018, p 55.

¹⁷⁵ Submission 22, Dairy Farmers Milk Co-op, p 4.

¹⁷⁶ Submission 22, Dairy Farmers Milk Co-op, p 4.

¹⁷⁷ Submission 1, Professor Ian Lean, p 8.

¹⁷⁸ Submission 22, Dairy Farmers Milk Co-op, p 6.

¹⁷⁹ Submission 22, Dairy Farmers Milk Co-op, p 8.

- 3.23** Mr Bezzi from the ACCC noted that the Commonwealth Government is pursuing measures to make collective bargaining easier:

...the Federal Government's response to the Harper Review on competition policy included amendments to the Competition and Consumer Act that make collective bargaining easier. That includes the process of smaller businesses notifying the ACCC or obtaining authorisation for an intention to collectively bargain with larger businesses; and also for applications for class exemptions.¹⁸⁰

Committee comment

- 3.24** As discussed in chapter 2, it is clear to the committee that a power imbalance exists between dairy farmers and the processors that buy their milk. This is preventing farmers from negotiating a fair price for their milk that reflects the cost of production and their own need to achieve a profit margin and sustainable business.
- 3.25** The committee fully supports the implementation of the dairy industry Mandatory Code of Conduct, as recommended by the ACCC in April 2018. The committee believes that if implemented well, the Mandatory Code will help empower dairy farmers to negotiate a fairer price at the farmgate.
- 3.26** The committee therefore recommends that the NSW Government work with the appropriate Commonwealth and industry bodies to ensure that the Mandatory Code of Conduct is implemented as a matter of urgency.
- 3.27** The committee considers that a significant barrier for farmers in negotiating a fair price for their milk is their inability to effectively engage in collective bargaining. The committee is concerned by the evidence it has received indicating that processors are not bound to deal with collective bargaining groups and that some farmers' groups struggle to engage large processors in these negotiations.
- 3.28** The committee is encouraged that the Commonwealth Government's is taking steps towards making collective bargaining easier.
- 3.29** However, the committee recommends that the NSW Government urgently and actively pursue, through relevant state and national forums, further measures that facilitate the ability of dairy farmers to collectively bargain with processors for their milk supply, including through the implementation of a collective bargaining code as part of the dairy industry Mandatory Code of Conduct.

Recommendation 3

That the NSW Government work with Commonwealth and industry bodies to ensure that the Mandatory Code of Conduct is implemented as a matter of urgency.

¹⁸⁰ Evidence, Mr Marcus Bezzi, Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 35.

Recommendation 4

That the NSW Government urgently and actively pursue, through relevant state and national forums, further measures that facilitate the ability of dairy farmers to collectively bargain with processors for their milk supply, including through the implementation of a collective bargaining code as part of the dairy industry Mandatory Code of Conduct.

- 3.30** The committee recognises that the Mandatory Code of Conduct may go some way to restoring the balance of power between farmer and processor and thus to achieving more sustainable farmgate prices in the long-term. However, the committee believes that New South Wales dairy farmers need immediate financial assistance to ensure their businesses can survive to see the benefit of the implementation of the Mandatory Code.
- 3.31** The committee did not receive evidence to suggest that re-regulation is a feasible mechanism for improving financial outcomes for New South Wales farmers. Given the integration of state markets and the influence of international markets, the committee considers that re-regulating the New South Wales dairy industry is unlikely to be practical. However, the committee believes that there is a need for some form of NSW Government action to financially assist dairy farmers in the short-term.
- 3.32** Accordingly, the committee recommends that the NSW Government implement an immediate assistance package—in the form that it deems appropriate, in addition to any existing drought measures—to provide financial support to New South Wales dairy farmers to ensure that they remain financially viable through to the implementation of the Mandatory Code of Conduct.
-

Recommendation 5

That the NSW Government implement an immediate assistance package, in addition to any existing drought measures, to provide financial support to New South Wales dairy farmers to ensure that they remain financially viable through to the implementation of the Mandatory Code of Conduct.

New South Wales dairy industry plan

- 3.33** In January 2016, the NSW Government released the NSW Dairy Industry Strategic Action Plan (the Action Plan).¹⁸¹ The Government said that 'the Action Plan identified a broad suite of activities for industry and the NSW Government to undertake to build the value of the NSW dairy industry'.¹⁸²
- 3.34** The Action Plan was developed by the Collective Industry Action Group (CIAG), which was formed in February 2015 to drive the Action Plan's development and implementation. The Action Plan identified four interconnected high order objectives:

¹⁸¹ NSW Government, *NSW dairy industry: strategic action plan*, January 2016.

¹⁸² Submission 20, NSW Government, p 13.

- Grow markets for New South Wales milk
- Build industry confidence to grow
- Support strategic farm business transition
- Improve farm productivity.¹⁸³

3.35 The Action Plan also identified five key action areas for the industry:

- Communicate a credible growth narrative
- Nurture and develop industry leaders
- Retain and grow human and financial capital in New South Wales dairy
- Develop the skills of dairy farm managers and employees to drive productivity
- Develop investment 'readiness' post farm gate.¹⁸⁴

3.36 Ms Annabel Johnson, Policy Director Livestock, NSW Farmers' Association, commented that the 2016 plan is an excellent framework but that it has not been well tracked in terms of progress and stakeholders have not been held to account:

The 2016 plan is an excellent framework but the problem with it is that it has not been well tracked in terms of progress. Stakeholders have not been held to account, including both industry stakeholders and government stakeholders, on their roles and responsibilities and delivering on them.¹⁸⁵

3.37 Ms Johnson said that the Action Plan needs to be revisited in order to determine if it still articulates the direction in which the industry needs to be heading. She said that it is important to make sure there are clear timeframes and that delivery is tracked and reported back to farmers:

Because of that lack of action, we think that now is the time to revisit that to look at what the new opportunities are and whether that plan, which was very much focused on growing, is still the direction in which the industry needs to be heading. We need to make sure that there are clear time frames on delivering and that there is a process around governance so that the actions are reported and there is a tracking back to farmers so they can have faith that the plan that was agreed to is going to be actioned and drive the industry.¹⁸⁶

3.38 The NSW Farmers' Association advocated for an update to the Action Plan that 'outlines the future of the NSW industry within the broader Australian context, and articulates the role of Government'. They recommend that the updated plan 'has clear targets and indicators to allow progress to be tracked'.¹⁸⁷

¹⁸³ NSW Government, *NSW dairy industry: strategic action plan*, January 2016, p 9.

¹⁸⁴ NSW Government, *NSW dairy industry: strategic action plan*, January 2016, pp 11-15.

¹⁸⁵ Evidence, Ms Annabel Johnson, Policy Director Livestock, NSW Farmers' Association, 16 November 2018, p 14.

¹⁸⁶ Evidence, Ms Annabel Johnson, Policy Director Livestock, NSW Farmers' Association, 16 November 2018, p 14.

¹⁸⁷ Submission 18, NSW Farmers' Association, p 5.

Dairy export plan

- 3.39** Some inquiry participants noted that there are opportunities for the New South Wales dairy industry to take advantage of export opportunities.
- 3.40** Mr Colin Thompson, Vice Dairy Chair, NSW Farmers' Association, said that Australian dairy products are highly regarded internationally and that there are opportunities to grow exports:
- Australian dairy products are highly regarded and trusted around the world, renowned for our efficient production systems, our clean green image and food safety that is second to none. Export opportunities continue to grow—however, all to no avail as production continues to decline.¹⁸⁸
- 3.41** The NSW Government said that it supports the expansion of exports 'through better marketing and packaging to tell the provenance story of clean, fresh and healthy milk'. It said that 'a cohesive approach is required incorporating trade shows, market research and marketing campaigns and potentially a trade mission program'.¹⁸⁹
- 3.42** The government commented that 'opening and maintaining access to global customers to increase fresh milk and dairy product exports will help to increase returns for milk and to diversify the customer base for NSW milk'.¹⁹⁰
- 3.43** Mr Hansen, Department of Primary Industries, said that the government has a role in facilitating trading relationships and that there is an opportunity for New South Wales to leverage Australia's strong reputation on the international market:
- I think there is more that we could be doing in the space of encouraging and facilitating trading relationships between specific countries and our exporters. We have a real advantage on this front because in mostly international trade space brand Australia gets you access into the marketplace and then your own commodity brand or your product brand is what gets you your customers and your loyalty. The advantage we have is that when most people think of Australia, they do think of New South Wales. They might not know it as New South Wales but they think of it as Sydney. We have the opportunity to continue to play off that and create opportunities for our exports in those marketplaces. At the same time, we have an industry that is keen to grow those opportunities.¹⁹¹
- 3.44** The 2016 the NSW Dairy Industry Strategic Action Plan identified the challenge for New South Wales in developing a foothold into emerging markets. It stated that progress in this area may include a New South Wales dairy export plan that articulates how extra milk production will be marketed and sold and new markets identified:

¹⁸⁸ Evidence, Mr Colin Thompson, Vice Dairy Chair, NSW Farmers' Association, 16 November 2018, p 12.

¹⁸⁹ Submission 20, NSW Government, p 11.

¹⁹⁰ Submission 20, NSW Government, p 15.

¹⁹¹ Evidence, Mr Scott Hansen, Director General, NSW Department of Primary Industries, 16 November 2018, p 8.

A NSW dairy export plan which articulates how extra milk production will be marketed and sold, the value to farmers and NSW, and the way in which these new markets will be identified and developed.¹⁹²

Committee comment

- 3.45** The committee considers that a well-articulated plan for the New South Wales dairy industry is crucial to its survival in the short term and ongoing success in the longer term. While national and global factors have a strong influence on the industry in New South Wales, the committee considers that the NSW Government has a vital role to play in planning for the future.
- 3.46** The committee supports the intent and objectives set out in the NSW Government's 2016 Dairy Industry Strategic Action Plan, however, the committee considers that the plan should be updated to articulate the strategic direction of the industry going forward.
- 3.47** The committee therefore recommends that, as a matter of urgency, and in consultation with farmers and industry representatives, the NSW Government develop an update to the NSW Dairy Industry Strategic Action Plan that includes:
- a report of progress against the objectives and action areas identified in the 2016 plan
 - a set of ongoing, measureable, high-order objectives and action areas for government and industry stakeholders, including timeframes for delivery and progress reporting
 - a plan for reporting progress of the Action Plan back to farmers.
- 3.48** The committee recognises that there are opportunities for the New South Wales dairy industry to increase its export presence. Accordingly, the committee also recommends that the updated Action Plan includes a dairy export plan that articulates how extra milk production can be marketed and sold and new markets identified.

Recommendation 6

That the NSW Government, as a matter of urgency, and in consultation with farmers and industry representatives, develop an update to the 2016 NSW Dairy Industry Strategic Action Plan that includes:

- a dairy export plan that articulates how extra milk production can be marketed and sold, and new markets identified
 - a report of progress against the objectives and action areas identified in the 2016 plan
 - a set of ongoing, measureable, high-order objectives and action areas for government and industry stakeholders, including timeframes for delivery and progress reporting
 - a plan for reporting directly back to farmers on the Action Plan.
-

¹⁹² NSW Government, *NSW dairy industry: strategic action plan*, January 2016, p 8.

An independent advocate for New South Wales dairy farmers

- 3.49** A number of inquiry participants discussed the need for an independent office to carry out a range of advocacy and support functions on behalf of New South Wales dairy farmers.
- 3.50** The committee heard that farmers require independent support and advice in several key areas, including:
- arbitration and support service in disputes with processors
 - assistance in understanding and negotiating milk supply agreements and contracts
 - regular advice on the state of the New South Wales dairy industry.
- 3.51** These are discussed in more detail in the following sections.

Arbitration and dispute resolution

- 3.52** Some inquiry participants noted that access to arbitration and dispute resolution services for dairy farmers is important to their ability to negotiate with processors. DFMC for example, noted that 'having the ability to approach an Independent Expert (who is capable of 'sifting the wheat from the chaff')' has been the key to their successful collective bargaining arrangements with their processor.¹⁹³
- 3.53** DFMC argued that the ability to access an independent expert to assist in resolving disputes is crucial for collective bargaining groups and that they need the financial resources to be able to access these services:
- Whilst the ability to approach an Independent Expert is central to any successful collective bargaining arrangements, the ability to approach the expert must be real and not illusionary. In DFMC's opinion, it is of critical importance that any CBG has the financial resources to be able to properly fund an Independent Expert determination process.¹⁹⁴
- 3.54** Mr John Bywater, Independent Director, DFMC, said that they had been successful as a co-operative in part because they have the resources to undertake dispute resolution with processors. He suggested that funding is required to support other groups in accessing the same service:

There needs to be maybe a pool of funds for genuine groups of farmers who have a dispute, some funding that will help them. We are aware the Tasmanian Government did this a number of years ago when some Tasmanian farmers were in dispute with Lion at the time.¹⁹⁵

- 3.55** Ms Debra Polson, Dairy Farmer, Oxley Island, commented that farmer negotiations with processors are unfair and farmers would benefit from a system of arbitration:

¹⁹³ Submission 22, NSW Dairy Farmers Milk Co-op, p 4.

¹⁹⁴ Submission 22, NSW Dairy Farmers Milk Co-op, p 4.

¹⁹⁵ Evidence, Mr John Bywater, Independent Director, Dairy Farmers Milk Co-operative, 16 November 2018, p 53.

...unfortunately the mechanisms [in the farmer-processor relationship] are not fair and open. We have been hitting brick walls, but the points that we raise are fair and legitimate. If there was some type of arbitration system then our voices might be heard.¹⁹⁶

- 3.56** Mr Ash Salardini, Chief Economist, NSW Farmers' Association, suggested there are actions that the NSW Government can undertake, including the establishment of an 'office of the farmer advocate'. Mr Salardini suggested that farmers require support in disputes with other industry participants due to potential high costs in resolving disputes:

If a farmer decides to take on a supermarket or a processor and take them to court there might be an adverse cost order made against them that could run into the millions of dollars. I do not know any farmer who has that kind of money or financial wherewithal to take a processor to court. We have a competition policy framework that more or less does not get tested.¹⁹⁷

Contract assistance

- 3.57** As discussed in chapter 2, some inquiry participants noted that milk supply agreements are overly complex and can be difficult for dairy farmers to understand and compare.¹⁹⁸ Further to this, farmers are at a disadvantage in negotiating their agreements with processors due to an imbalance in each party's relative bargaining power.¹⁹⁹
- 3.58** Some inquiry participants noted that there is a need for increased support for dairy farmers in understanding and comparing milk supply contracts. The NSW Farmers' Association, for example, noted that 'there is a great need for programs to allow for increased resources for farmers to understand contracts and supporting documentation from processors'.²⁰⁰
- 3.59** Mr Tim Cochrane, Dairy Farmer, Candelo, said that an independent representative could be responsible for overseeing contract negotiations to ensure farmers achieve a fair price:

[A dairy commissioner] needs to be able to sign off everything. Every agreement between a milk processor and a supermarket needs to be able to be signed off by someone like that or the farmers need a representative in that room to make sure that we are not being undersold like we are now.²⁰¹

Annual review of the state of the dairy industry

- 3.60** Dairy Connect suggested that an independent body could include a role in overseeing the industry, including through annual reporting on the 'state of the NSW Dairy Industry':

¹⁹⁶ Evidence, Ms Debra Polson, Dairy Farmer, Oxley Island, 19 November 2018, p 25.

¹⁹⁷ Evidence, Mr Ash Salardini, Chief Economist, NSW Farmers' Association, 16 November 2018, p 13.

¹⁹⁸ Submission 18, NSW Farmers' Association, p 7.

¹⁹⁹ Submission 22, Dairy Farmers Milk Co-op, p 5.

²⁰⁰ Submission 18, NSW Farmers' Association, p 8.

²⁰¹ Evidence, Mr Tim Cochrane, Dairy Farmer, Candelo, 12 November 2018, p 45.

This position would be conduit to the relevant Minister and Parliament on issues that continue to be raised by the dairy industry in a regular and on-going basis... Such reports could, for instance, [include] an annual 'state of the NSW Dairy Industry' where information is provided to the Parliament as to the current position of the dairy industry in NSW.²⁰²

- 3.61** Mr Morgan, Dairy Connect, explained that a Commissioner for Dairy would be a mechanism to assist and guidance to dairy farmers as a point of contact n government:

We believe that is one mechanism by which a dairy farmer could have a point of call within government who could be seen to be independent of government, report to the Minister and to the Parliament to be able to provide, if not a yearly report on the state of dairying in New South Wales, at least be able to provide advice and guidance to producers about what it is that they are currently dealing with their processors, in a way that is proactively positive in long-term negotiations.²⁰³

Is a NSW Commissioner for Dairy needed?

- 3.62** A large number of dairy farmers that participated in the inquiry expressed support for a NSW Commissioner for Dairy of similar office.²⁰⁴

- 3.63** Mr Phil Ryan, Dairy Farmer, Bega, for example, said 'I have come across suggestions for a New South Wales milk commissioner or a similar position. It is something that I wholeheartedly endorse'.²⁰⁵

- 3.64** Dairy Connect advocated strongly for the establishment of a NSW Commissioner for Dairy, outlining a number of key roles the office might undertake:

It has become apparent that the producers require external support. This could come through the creation of a NSW Commissioner for Dairy. This position would be conduit to the relevant Minister and Parliament on issues that continue to be raised by the dairy industry in a regular and on-going basis.²⁰⁶

- 3.65** Professor Ian Lean, Managing Director, Scibus, commented that a NSW Commissioner for Dairy that is 'effectively a person who would represent the farmers en masse' would be 'a really viable way of rebalancing the pressure' in the industry:

I think [a Milk Commissioner] would need to be highly skilled, obviously. It may be one mechanism forward. Obviously we have been really strong on a mandatory code. I think the mandatory code is essential so that there can be equity in discussion between farmers and milk manufacturers, also scale, allowing farmers to band together. But effectively

²⁰² Submission 24, Dairy Connect, p 9.

²⁰³ Evidence, Mr Shaughn Morgan, Chief Executive Officer, Dairy Connect, 19 November 2018, p 9.

²⁰⁴ For example, Evidence, Mr Tim Cochrane, Dairy Farmer, Candelo, 12 November 2018, p 44; Robert John Miller, Dairy Farmer, Milton, 12 November 2018, p 11; Evidence, Mr David Boyd, Dairy Farmer, 12 November 2018, p 30; Submission 7, Mr Gregory Schofield, p 3; Mr Tim Bale, Dairy Farmer, Chairman, Taree Collective Bargaining Group, 19 November 2018, p 5; Evidence, Ms Jacqui Woolnough, Dairy Farmer, Dyers Crossing, 19 November 2018, p 31.

²⁰⁵ Evidence, Mr Phil Ryan, Dairy Farmer, Bega, 16 November 2018, p 46.

²⁰⁶ Submission 24, Dairy Connect, p 9.

what you have said is that that milk commissioner would be effectively a person who would represent the farmers en masse. I think that is a really viable way of rebalancing the pressure. We are going to need to rejuvenate this industry to be able to face the future.²⁰⁷

- 3.66** Ms Gabrielle Ford, General Manager, Agriculture, Advocacy and Enforcement, ACCC, noted that the ACCC agrees that advocacy for farmers is always welcomed. She pointed out, however, that this is one of the key roles of a newly created ACCC commissioner dedicated to agriculture:

We agree that advocacy for farmers is always welcomed and that strong representation is a good thing for the functioning of the industry and the economic performance of the industry. I would add that that is one of the key roles of the ACCC agriculture unit and one of reasons the unit was established. We have a commissioner with special expertise in agriculture who is now one of the deputy chairs of the ACCC. We take that role really seriously. We are very committed to it. We would continue to advocate for competitive markets and addressing problems with bargaining power imbalances when we see them to be problematic, as we have.²⁰⁸

- 3.67** In response to questions regarding the need for a NSW Commissioner for Dairy, Mr Hansen, NSW Department of Primary Industries, pointed out that dairy production operates across state borders and that accordingly, intervention must happen at a national rather than a state level. He noted that consultation is ongoing for the national dairy industry Mandatory Code of Conduct and highlighted the recent appointment by the ACCC of a dedicated agricultural commissioner:

Starting from the premise that I commented on before that dairy production systems and dairy supply chains do not recognise State boundaries but operate across them, whatever happens in the market imbalance intervention space—I note that the Commonwealth is now undertaking consultations about a mandatory code of conduct for the industry—must happen at a national rather than a State level. We do not want to create an environment in which anyone in the supply chain feels that there is a downside risk in dealing with a State versus dealing collectively with all of the States. That being said, we took great heart from the appointment by the ACCC of a dedicated agricultural commissioner. That role is still relatively new; I think it has been only two years or 18 months that it has been in place.²⁰⁹

- 3.68** Mr Morgan suggested that a NSW Commissioner for Dairy could 'play an important role of liaison between the ACCC and the dairy producers within the State'.²¹⁰
- 3.69** The NSW Farmers' Association recommended that the NSW Government establish 'a NSW Commissioner for Agriculture to advocate on behalf of the farming sector and help rebalance

²⁰⁷ Evidence, Professor Ian John Lean, Managing Director, Scibus, 12 November 2018, p 35.

²⁰⁸ Evidence, Ms Gabrielle Ford, General Manager, Agriculture, Advocacy and Enforcement, Australian Competition and Consumer Commission, 16 November 2018, p 38.

²⁰⁹ Evidence, Mr Scott Hansen, Director General, NSW Department of Primary Industries, 16 November 2018, p 7.

²¹⁰ Evidence, Mr Shaughn Morgan, Chief Executive Officer, Dairy Connect, 19 November 2018, pp 13-14.

power relationships in supply chains'²¹¹ but did not advocate for a Commissioner specific to the dairy industry.

Committee comment

- 3.70** In chapter 2 of this report the committee found that there is a power imbalance between New South Wales dairy farmers and processors that impacts significantly on the viability of dairy farm businesses.
- 3.71** The committee considers that this imbalance is heightened by the inaccessibility of arbitration and dispute resolution services for farmers, and the lack of independent advice to assist farmers in understanding and comparing processor milk supply agreements.
- 3.72** During the course of the inquiry, a number of participants, including many farmers, expressed support for an independent dairy advocate or commissioner to provide advocacy and support services directly to dairy farmers.
- 3.73** The committee is encouraged by the appointment of a Commissioner with specific expertise in agriculture within the ACCC. However, the committee considers that given the precarious position in which New South Wales dairy farmers currently find themselves, a NSW Commissioner, specifically focused on the dairy industry, is needed.
- 3.74** As discussed in chapter 2, stable farmgate prices and rising costs of production are driving down margins for farmers. Both dairy farmers and government need regular independent advice on the state of the market in order to make informed decisions.
- 3.75** Accordingly, the committee recommends that the NSW Government immediately establish and fund an independent NSW Commissioner for Dairy with consideration given to the following functions:
- the provision of arbitration and dispute resolution support for farmers in negotiations with dairy processors
 - the provision of advice to farmers to engage in collective bargaining where appropriate
 - the provision of assistance to farmers in understanding and negotiating contracts for their milk supply
 - conduct annual reviews into the state of the New South Wales dairy industry, including an assessment farmgate milk prices in New South Wales regions in relation to the cost of production, and reporting on market issues by farmers.

²¹¹ Submission 18, NSW Farmers' Association, p 5.

Recommendation 7

That the NSW Government immediately establish and fund an independent NSW Commissioner for Dairy with consideration given to the following functions:

- provide arbitration and dispute resolution support for farmers in negotiations with dairy processors
 - provide advice to farmers to engage in collective bargaining where appropriate
 - provide assistance to farmers in understanding and negotiating contracts for their milk supply
 - conduct annual reviews into the state of the New South Wales dairy industry, including an assessment of farmgate milk prices in New South Wales regions in relation to the cost of production, and reporting on market issues raised by farmers.
-

- 3.76** The committee recognises that the dairy industry Mandatory Code of Conduct has not yet been finalised and that it is likely to seek to address some similar concerns. The committee considers that a NSW Commissioner of Dairy would enhance the benefit to New South Wales dairy farmers of the implementation of the Mandatory Code.

Research, development and extension

- 3.77** The NSW Government noted that 'the most effective way for the NSW Government to support dairy farmers is by increasing industry productivity and reducing the cost of doing business'.²¹²

- 3.78** Mr Hansen, NSW Department of Primary Industries, said that where government 'can help the industry more generally is largely set by the work of dairy farmers with groups like Dairy Australia in identifying the productivity gains they are looking for and the areas for future investment'.²¹³

- 3.79** Mr Hansen acknowledged that there is 'very little fat' left in terms of efficiencies and that further gains will come through new innovations:

When we talk about productivity and efficiencies, we are not talking about just stripping costs out of the system, because there is very little fat left. This is about the next big breakthrough in terms of the genetics of the cow to help increase production volume off the same inputs. What are the next big breakthroughs in terms of the stability of the fresh product to enable even further distribution and to reduce supply chain costs in that process? All of those pieces are part of that; it is not just about removing current costs from the system.²¹⁴

²¹² Submission 20, NSW Government, p 11.

²¹³ Evidence, Mr Scott Hansen, Director General, NSW Department of Primary Industries, 16 November 2018, p 3.

²¹⁴ Evidence, Mr Scott Hansen, Director General, NSW Department of Primary Industries, 16 November 2018, p 6.

Government research and development programs

- 3.80** The NSW Government said that it focuses on three strategic priorities in research and development (R&D), namely: 'innovative industry development; a business management culture; and dairy industry sustainability',²¹⁵ which were developed with the sector as part of the *NSW Dairy Industry Strategic Action Plan*.²¹⁶
- 3.81** The NSW Government said that R&D is critical to the increase productivity in the sector and reduce cost of production and said that the government will 'remain a key player' in this space.²¹⁷
- 3.82** Current government R&D projects, include:
- running the Dairy Farm Monitor Project (DFMP) to provide accurate, reliable information on profitability and productivity, collecting data from 32 farms across NSW. The DFMP provides profitability and productivity data to allow farmers to compare their performance against other farms, and identify areas for improvement;
 - development of online training, publications, workshop and other resources to improve farm business management skills;
 - a national project to improve the adoption success for robotic milking in Australia called Milking Edge;
 - updating the Top Fodder course and delivering it to dairy farmers and their advisors in collaboration with Dairy Australia;
 - examining opportunities to increase efficiency of nitrogen fertiliser use to increase productivity of pastures, including examining enhanced efficiency fertiliser formulations;
 - research to investigate technologies to better manage nitrogen cycling via animal excreta in order to improve productivity and reduce environmental impacts;
 - examining the use of high pressure processing to remove vegetative microorganisms and bacterial spores without the detrimental chemical changes caused by heat;
 - exploring the potential to change milk proteins and other characteristics which impact yield and nature of products such as cheese;
 - a scoping study to evaluate a novel technology for the early detection of pregnancy in cattle;
 - identifying factors affecting cost of production in NSW relative to other regions, and developing projects to help farmers manage costs and improve profit.²¹⁸
- 3.83** Dairy NSW is a key contributor to research and development in the New South Wales dairy sector. Dairy NSW is a levy and government funded body, established to provide 'research, development and extension support to dairy farmers in NSW, for the purpose of supporting a profitable and sustainable dairy industry'.²¹⁹
- 3.84** Dairy NSW said that it endeavours to 'provide farmers with the knowledge, skills and resources to most effectively manage the internal variables of their business, for best adapting to external

²¹⁵ Submission 20, NSW Government, p 12.

²¹⁶ NSW Government, *NSW dairy industry: strategic action plan*, January 2016.

²¹⁷ Submission 20, NSW Government, p 14.

²¹⁸ Submission 20, NSW Government, pp 12-13.

²¹⁹ Submission 2, Dairy NSW, p 1.

influences beyond their control' and that this 'includes targeted training in farm business management, feed production and animal management'.²²⁰

- 3.85** Dairy NSW indicated that a key project is a 'collaborative whole of industry plan currently in development amongst all industry stakeholders, which identifies and prioritises the most important activities for the future prosperity of the dairy industry'.²²¹

Funding for research and development

- 3.86** The NSW Government noted that it has established the Dairy Industry Fund (DIF) to fund projects to 'contribute to the growth and efficiency of the NSW dairy industry'.²²² There are currently five funded projects:

- the Dairy Progression Framework, which provides a logical and progressive framework to guide NSW dairy youth in navigating the multitude of professional development opportunities presented by industry, for the purpose of leadership development;
- the Tech – KISS Technology that allow farmers and service providers to identify datacapture and labour-saving technologies (e.g. electronic milk, activity meters and ID) matching their actual needs through an in-depth assessment of technology utilisation on NSW dairy farms;
- accelerating adoption of farm business management practices. This includes market research to identify barriers to adoption of industry standard Farm Business Management (FBM); Design and Delivery of FBM programs utilising best practice extension techniques, findings of market research and industry standards;
- the online Farm Business Management Fundamentals that transforms the industry developed "Farm Business Management Fundamentals" (FBMF) short course for dairy farmers into an engaging interactive online course, to enable flexible delivery to all NSW dairy farmers;
- a clinical study to compare the effect of cow's' milk with soy drink on dental health. Preliminary research suggests soy drink increases risk of tooth decay (Dashper et al, 2012).²²³

- 3.87** Mr Hansen noted that at the time of his appearance, 32 of the 660 dairy farmers in the state had also utilised the government's Farm Innovation Fund to access low interest credit to enable new technologies:

...at the moment I think we have 32 dairy farmers in the State who have utilised the Government's farm innovation fund to access capital at a fixed low interest rate, subsidised by government, to enable them to get new technologies, new equipment, or new drought mitigation or seasonal mitigation technologies in place. But that is 32 out of 660 dairy farmers in the State.²²⁴

²²⁰ Submission 2, Dairy NSW, p 1.

²²¹ Submission 2, Dairy NSW, p 1.

²²² Submission 20, NSW Government, p 13.

²²³ Submission 20, NSW Government, p 13.

²²⁴ Evidence, Mr Scott Hansen, Director General, NSW Department of Primary Industries, 16 November 2018, p 6. The 660 figure was clarified by Mr Hansen, noting that there were 660 dairy farms in the state in 2016-17 and that the 2017-18 figure is 626.

- 3.88** Norco Co-operative Limited asserted that in recent times, government funding for industry support in research and development and extension services has reduced. Norco pointed out that the increasing cost of production does not foster an environment of investment in efficiencies. Norco said that there is a role for government agencies to play in the funding of research:

In recent times, we have seen a reduction in support funding through the Department of Primary Industries, Local Land Services and general industry support of research and development and extension services. While farm gate pricing in non-exceptional circumstances could be considered largely sustainable, cost of production increases over time, do not foster an environment of increased investment or practices on farm to increase efficiencies to offset these increases. These organisations play a significant role in the research and the communication of beneficial developments to dairy farmers and the continued decline in funding provides less of an opportunity for industry development and sustainability.²²⁵

- 3.89** Mr Greg McNamara, Acting Chief Executive Officer and Chairman, Norco Co-operative Limited, commented that in order to remain internationally competitive, the industry must be innovative. He suggested that government needs to invest in this space:

I think the other one is to make sure that we have got an innovative society. If we want to encourage the dairy industry in Australia to be globally competitive and increase our milk volumes, then we need to be competitive globally. That means we need to have innovation programs, whether it is in processing, whether it is on farm, and that is an investment that I would suggest that the Government needs to think about having a program.²²⁶

- 3.90** The NSW Farmers' Association recommended that the NSW Government 'increase investment in programs to enhance water infrastructure for dairy farmers' to enhance efficiency and increase productivity'.²²⁷

- 3.91** Dairy Connect advocated for a state-based levy on retail drinking milk sales to be directed to research and development and infrastructure improvements for dairy farming enterprises:

A State based levy could be imposed on the sales of all drinking milk sold and/or produced within NSW. These funds could be quarantined within, for instance, NSW DPI or a newly established NSW Milk Marketing Board with the purpose of providing assistance to producers for further research, development and extension services within the dairy industry.²²⁸

- 3.92** Professor Ian Lean, Managing Director, Scibus, noted that there is currently a levy paid directly by dairy farmers to fund Dairy Australia.²²⁹

²²⁵ Submission 11, Norco Co-operative Limited, pp 4-5.

²²⁶ Evidence, Mr Greg McNamara, Acting Chief Executive Officer and Chairman, Norco Co-operative Limited, 16 November 2018, p 30.

²²⁷ Submission 18, NSW Farmers' Association, p 5.

²²⁸ Submission 24, Dairy Connect, p 10.

²²⁹ Evidence, Professor Ian Lean, Managing Director, Scibus, 12 November 2018, p 37.

Extension of research and development

- 3.93** Mr Barry Irvin, Executive Chairman, Bega Cheese commented on the benefit of research and development, but noted that it is also vital that extension services exist to ensure that as many farmers as possible realise the benefits:

Research and development is wonderful but if we do not get extension, if we do not go out there and say to farmers, both those that are growing and those that are struggling, "Here's a new variety of rye grass. Perhaps you should try it. Here's a new practice. Here is some of the best technology"—this might be a strange answer but I would argue there is a great opportunity in agtech but if we do not get the extension of agtech on to all of our farmers, or the vast majority of them, they will not see the advantage that they need to see.²³⁰

- 3.94** Mr Irvin used the example of his own experience when he began dairy farming, telling the committee that he was provided with regular, independent advice from the local departmental agronomist on best practice. He said that today, his own son, also a farmer, does not have access to this independent advice and must spend time 'trying to work out whether the agronomist who talks to him and who works for Monsanto or works for one of the seed companies is trying to sell him something or whether it is actually good advice'.²³¹
- 3.95** Mr Irvin noted that the industry and government have a role to play in achieving greater extension of research and development:

I think we have got some very good research and development [R&D] out there and we are not getting the extension. Your point is well enough made: "Well, surely that is just done commercially", but sometimes when it is not happening or there is market failure, obviously that is where government needs to step in.²³²

Collaboration with academia in research and development

- 3.96** Professor Ian Lean pointed out that academic research into the industry has declined. He said, for example, that 'the University of Sydney had 13 staff dedicated to dairy research in 1997/8; it now has one. There is an urgent need to rejuvenate this group and others...'²³³
- 3.97** Professor Lean proposed a 'transformational R&D program to provide sustainable and innovative approaches to safeguard against future risks for NSW dairy farms and improve industry viability'. The proposal would aim to 'provide the unmet need for NSW directed research, development and extension' with a foreshadowed 5-year plan of development'.²³⁴
- 3.98** The proposal put forward by Professor Lean would be a long-term, multidisciplinary program focused on reducing dairy system risks of failure of production, welfare, biosecurity, and to reduce environmental impacts:

²³⁰ Evidence, Mr Barry Irvin, Executive Chairman, Bega Cheese, 26 November 2018, p 25.

²³¹ Evidence, Mr Barry Irvin, Executive Chairman, Bega Cheese, 26 November 2018, p 26.

²³² Evidence, Mr Barry Irvin, Executive Chairman, Bega Cheese, 26 November 2018, p 25.

²³³ Submission 1, Professor Ian Lean, p 9.

²³⁴ Answers to questions on notice, Professor Ian Lean, 27 November 2018, p 3.

We seek to develop a long-term, multidisciplinary, transformational RD&E program that will focus on NSW dairy systems and reduce risks of failure of production, welfare, biosecurity, and to reduce environmental impacts of dairying. The program is designed towards securing a future for the NSW dairy industry, by increasing farm profit and to benefit the people of NSW. It builds on the opportunities to provide locally sourced milk and to potentially utilize the new airport developments in Western Sydney to access export markets.²³⁵

- 3.99** The proposal called for 'a collaborative, co-investment model between the university sector, the NSW Government and the private sector (farmers, organisations, private companies)'.²³⁶
- 3.100** Professor Lean's proposal included a target contribution of \$2 million per year for 5 years to establish the program of work. This would be used 'to gain matching support from other organisations', with funding expected to 'grow and roll over more extended periods of time to ensure the long-term survival of dairy RD&E in NSW'.²³⁷

Committee comment

- 3.101** The committee considers that ongoing research and development is crucial to the ability of the New South Wales dairy industry to survive. If dairy farmers are to be competitive, especially in international markets, they must be innovative and continue to take advantage of new technologies and practices. It is clear to the committee, however, that with dairy farmers struggling to keep their businesses viable, their ability to seek out and invest in these developments is limited.
- 3.102** This committee commends the work of Dairy NSW in promoting research and development and recognises the importance of ongoing programs of the NSW Government, however, more must be done.
- 3.103** The committee has heard that government funding in research, development and extension services is declining and is concerned that the benefits of research and development are going unrealised by many farmers due to a lack of independent advice and capital for investment.
- 3.104** It is not clear to the committee the reason why there is only 32 out of over 600 dairy farmers accessing the government's farm innovation. The committee is concerned that it may be that farmers do not have time to take advantage of this fund as they are too busy trying to keep their businesses going; that there is low awareness of the fund in the industry; or that farmers have difficulty accessing the fund. The committee therefore recommends that the NSW Government promote its Farm Innovation Fund and consider ways to improve access for dairy farmers.

Recommendation 8

That the NSW Government promote its Farm Innovation Fund and consider ways to improve access for dairy farmers.

²³⁵ Answers to questions on notice, Professor Ian Lean, 27 November 2018, p 4.

²³⁶ Answers to questions on notice, Professor Ian Lean, 27 November 2018, p 4.

²³⁷ Answers to questions on notice, Professor Ian Lean, 27 November 2018, p 6.

- 3.105** The committee also recommends that the NSW Government reinstate its historic role in providing independent advice directly to farmers on the extension of research and development initiatives.
- 3.106** The committee also recommends that the NSW Government increase its funding for research and development projects in the New South Wales dairy industry and ensure there is a focus on a collaborative, co-investment model between the university sector, the NSW Government and the private sector.

Recommendation 9

That the NSW Government reinstate its historic role in providing independent advice directly to farmers on the extension of research and development initiatives.

Recommendation 10

That the NSW Government increase its funding for research and development projects in the New South Wales dairy industry and ensure there is a focus on a collaborative, co-investment model between the university sector, the NSW Government and the private sector.

Appendix 1 Submissions

No.	Author
1	Professor Ian Lean
2	Dairy NSW
3	Mr Murray Sowter
4	Mr Peter and Mrs Jane Middlebrook
5	Name suppressed
6	Name suppressed
7	Mr Cameron Quin
8	Mr Gregory Schofield
9	Mr Peter Graham
10	Mrs Ruth Kydd
11	Norco Co-operative Limited
12	RH Boyd & Son Pty Ltd
13	Narrawilly Farm
14	Woolworths Group Limited
15	Business Council of Co-Operatives and Mutuals
16	Mr Phil Ryan
17	Mr Tim Bale
18	NSW Farmers' Association
19	Mr Trevor Middlebrook
20	NSW Government
21	Mr Tim Cochrane
22	Dairy Farmers Milk Co-Operative Limited
23	Parmalat Subcommittee Taree Collective Bargaining Group
23a	Confidential
24	Dairy Connect Limited
25	Mr Evan William Hayes

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Monday 12 November 2018 Shotz Room, Moss Vale Golf Club, Moss Vale	Mr Greg Schofield	Dairy farmer
	Mr Robert Miller	Dairy farmer
	Mr Tracey Russell	Dairy farmer
	Mr Peter Middlebrook	Dairy farmer
	Mrs Jane Middlebrook	Dairy farmer
	Mrs Sue Boyd	Dairy farmer
	Mr David Boyd	Dairy farmer
	Professor Ian Lean	Managing Director, Scibus
	Mr Tim Cochrane	Dairy farmer
	Mrs Cathie Cochrane	Dairy farmer
	Mr Evan Hayes	Dairy farmer
Friday 16 November 2018 Macquarie Room, Parliament House, Sydney	Mr Ian Zandstra	Dairy farmer
	Mr Scott Hansen	Director General, NSW Department of Primary Industries
	Mr Alex Russell	Manager, Intensive Livestock, NSW Department of Primary Industries
	Mr Ash Salardini	Chief Economist, NSW Farmers Association
	Mr Colin Thompson	Vice Dairy Chair, NSW Farmers Association
	Ms Annabel Johnson	Policy Director Livestock, NSW Farmers Association
	Mr Michael Jeffery	Deputy Chairman, Norco Co-operative Limited
Mr Greg McNamara	Acting Chief Executive Officer and Chairman, Norco Co-operative Limited	

Date	Name	Position and Organisation
	Mr Marcus Bezzi	Executive General Manager, Specialised Advocacy and Enforcement, Australian Competition and Consumer Commission
	Ms Gabrielle Ford	General Manager, Agriculture, Advocacy and International, Australian Competition and Consumer Commission
	Mr Phil Ryan	Dairy farmer
	Mr Mark Kebbell	Executive Officer, Dairy Farmers Milk Co-operative
	Mr John Bywater	Independent Director, Dairy Farmers Milk Co-operative
Monday 19 November 2018 Casuarina Room, Club Taree, 121 Wingham Road, Taree	Mr Tim Bale	Dairy farmer, Chairman, Taree Collective Bargaining Group
	Mr Shaughn Morgan	Chief Executive Officer, Dairy Connect
	Mr Graham Forbs	President, Farmers Group, Dairy Connect
	Mr Trevor Middlebrook	Dairy farmer
	Mr Graham Bird	Dairy farmer
	Mrs Debra Polson	Dairy farmer
	Mrs Jacqui Woolnough	Dairy farmer
	Mr Joel Dorries	Dairy farmer
	Mr John Polley	Dairy farmer
	Mrs Narelle Polley	Dairy farmer
Monday 26 November 2018 Macquarie Room, Parliament House, Sydney	Mr Tony Parkinson	Head, Public Affairs, Coles <i>(via teleconference)</i>
	Ms Vittoria Bon	Government and Industry Relations Manager, Corporate Affairs, Coles <i>(via teleconference)</i>

Date	Name	Position and Organisation
	Mr Christian Bennett	Head of Government Relations and Industry, Woolworths
	Mr Paul Harker	Director, Fresh Foods, Group Replenishment and Buying Support, Woolworths <i>(via teleconference)</i>
	Mr Barry Irvin	Executive Chairman, Bega Cheese

Appendix 3 Minutes

Minutes no. 74

Wednesday 17 October 2018

Portfolio Committee No. 5 – Industry and Transport
Members' Lounge, Parliament House at 10.17 am

1. Members present

Mr Brown, *Chair*

Mr Veitch, *Deputy Chair*

Mr Colless

Mr Fang

Mr MacDonald

Mr Mookhey

Mr Pearson

2. Previous minutes

Resolved, on the motion of Mr Veitch: That draft minutes no. 72-73 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 21 September 2018 – Email from Mr Gary Gaganoff to the secretariat, requesting advice on the criteria for releasing footage of Budget Estimates hearings
- 26 September 2018 – Letter from Hon Andrew Constance, Minister for Transport and Infrastructure, attaching answers to questions on notice, answers to supplementary questions and transcript corrections
- 26 September 2018 – Letter from Hon Niall Blair MLC, Minister for Primary Industries, Regional Water, Trade and Industry to the secretariat, attaching answers to questions on notice, answers to supplementary questions and transcript corrections
- 27 September 2018 – Letter from Hon Paul Toole MP, Minister for Lands and Forestry, Racing to the secretariat, attaching answers to questions on notice, answers to supplementary questions and transcript corrections
- 28 September 2018 – Letters from Hon Melinda Pavey MP, Minister for Roads, Maritime and Freight to the secretariat, attaching answers to questions on notice, answers to supplementary questions and transcript corrections
- 28 September 2018 – Email from Ms Shannen Innis, Office of Hon Paul Toole MP, Minister for Lands and Forestry, Racing to the secretariat, providing missing attachments referred to in the Minister's responses
- 3 October 2018 – Letter from Hon Stuart Ayres MP, Minister for Western Sydney, WestConnex, Sport to the Chair, attaching answers to questions on notice, answers to supplementary questions and transcript corrections
- 16 October 2018 – Letter from Mr Brown, Mr Veitch and Mr Colless requesting a meeting of Portfolio Committee No. 5 to consider a proposed self-reference into the sustainability of the dairy industry in New South Wales

Sent:

- 5 September 2018 – Email from secretariat to Mr Andrew Dixon, Minister Constance's office, attaching transcript of evidence with questions on notice highlighted, supplementary questions and instructions on how to correct the transcript and return answers to questions

- 5 September 2018 – Email from secretariat to Ms Amy Minahan, Minister Blair’s office, attaching transcript of evidence with questions on notice highlighted, supplementary questions and instructions on how to correct the transcript and return answers to questions
- 6 September 2018 – Email from secretariat to Ms Angeli Lee, Minister Toole’s office, attaching transcript of evidence with questions on notice highlighted, supplementary questions and instructions on how to correct the transcript and return answers to questions
- 12 September 2018 – Email from secretariat to Mr Jock Sowter, Minister Pavey’s office, attaching transcript of evidence with questions on notice highlighted, supplementary questions and instructions on how to correct the transcript and return answers to questions
- 11 September 2018 – Email from secretariat to Ms Amanda Choularton and Ms Meghan Senior, Minister Ayres’ office, attaching transcript of evidence with questions on notice highlighted, supplementary questions and instructions on how to correct the transcript and return answers to questions
- 21 September 2018 – Email from secretariat to Mr Harry Burkitt, advising that the Portfolio Committee No.5 considered his request for footage of the Minister Ayres’ hearing and resolved not to release the footage.

4. Inquiry into Budget Estimates 2018-2019

4.1 Supplementary hearings

Resolved, on the motion of Mr Colless: That the committee hold no further hearings to consider matters relating to the following portfolios:

- Primary Industries, Regional Water, Trade and Industry
- Western Sydney, WestConnex, Sport
- Lands and Forestry, Racing, and
- Roads, Maritime and Freight.

Resolved, on the motion of Mr Mookhey: That the committee:

- seek further detailed answers from the Minister for Transport and Infrastructure, the Hon Andrew Constance MP, to be provided within 14 days, regarding:
 - answers to supplementary questions 27-28, 115, 118, 121, 139, 147-148, 163, 164-170, 175-176, 184, 194-196, 205-206, 212, 217, 293-302, 316-318, 322-324, 328, 362-365, 369-371, 373, 381, 382; and
 - answers to questions taken on notice for questions 7, 8, 10, 16, 17, 18, 26-29, 33 and 36.
- meet following receipt of the further answers to decide whether to hold a supplementary hearing for the portfolios of Transport and Infrastructure.

5. Consideration of inquiry terms of reference

Resolved, on the motion of Mr Mookhey: That the committee amend the proposed terms of reference for an inquiry into the long-term sustainability of the dairy industry and the role of the Department of Primary Industries and other government agencies in supporting the industry, by amending clause 1(a) to insert 'logistics companies' after the word 'processors'.

Resolved, on the motion of Mr Veitch: That the committee adopt the terms of reference as amended.

6. Conduct of the inquiry into the sustainability of the dairy industry in New South Wales

6.1 Proposed timeline

Resolved, on the motion of Mr Fang: That the committee adopt the following timeline for the administration of the inquiry:

- Monday 5 November 2018 – submission closing date
- November 2018 – hearings
- Tuesday 11 December 2018 – report deliberative
- Friday 14 December 2018– table report.

6.2 Stakeholder list

Resolved, on the motion of Mr MacDonald: That the secretariat circulate to members the Chair’s proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

6.3 Advertising

Resolved, on the motion of Mr MacDonald: That the committee advertise the inquiry in *The Land* newspaper.

7. Adjournment

The committee adjourned at 10.36 am.

Rebecca Main
Committee Clerk

Minutes no. 75

Monday 12 November 2018
Portfolio Committee No. 5 – Industry and Transport
Shotz Room, Moss Vale Golf Club, Moss Vale at 9.45 am

1. Members present

Mr Brown, *Chair*
Mr Colless, *Acting Deputy Chair*
Mr Fang
Mrs Houssos (substituting for Mr Mookhey for the duration of the inquiry)
Mr MacDonald

2. Apologies

Mr Veitch
Mr Pearson

3. Deputy Chair

Resolved, on the motion of Mr Fang: That Mr Colless act as Deputy Chair for the meeting.

4. Previous minutes

Resolved, on the motion of Mr Colless: That draft minutes no. 74 be confirmed.

5. Correspondence

The committee noted the following items of correspondence:

Received:

- 17 October 2018 – Email from the Hon Shaoquette Moselmane MLC, Opposition Whip, advising that Mrs Houssos will be substituting for Mr Mookhey for the duration of the inquiry

- 19 and 23 October 2018 – Letters from the Hon Niall Blair MLC, Minister for Primary Industries, Minister for Regional Water, Minister for Trade and Industry, relating to the commercial fishing reforms
- 1 November 2018 – Letter from the Hon Andrew Constance MP, Minister for Transport and Infrastructure, attaching further detailed answers to questions on notice and supplementary questions
- 1 November 2018 – Letter from Natalie Toohey, Lion Dairy and Drinks, declining invitation to appear at public hearing on 16 November (
- 1 November 2018 – Email from Kristie Clarkson, Events and Marketing Manager, Australian Logistics Council, declining invitation to appear at public hearing on 16 November
- 1 November 2018 – Email from April Browne, Regional Manager Dairy NSW, declining to appear at public hearing on 16 November
- 5 November 2018 – Email from Kate William, Executive Assistant, Burra Foods, declining invitation to appear at public hearing on 16 November
- 5 November 2018 – Email from Vittoria Bon, Government and Industry Relations Manager, Coles, declining to appear at public hearing on 16 November and providing Coles' Opening Statement to the Senate Economics References Committee, Australian dairy industry inquiry from 15 November 2016
- 5 November 2018 – Email from Adrian Christie, Communications Director, Aldi Australia, declining to appear at public hearing on 16 November
- 5 November 2018 – Email from Mr Christian Bennett, Head of Government Relations & Industry Affairs, Woolworths Group - declining to appear at public hearing on 16 November
- 6 November 2018 – Letter from Lisa Knight, Director Parliamentary and Government Liaison, ACCC, nominating ACCC representatives for hearing and highlighting ACCC's recent inquiry into the dairy industry
- 6 November 2018 – Email from Blair Harvey, SRH Milk, declining invitation to appear at public hearing on 16 November
- 7 November 2018 – Email from Josh Walker, Australian Retailers Association, declining to appear at hearing on 16 November.

6. Inquiry into Budget Estimates 2018-2019

6.1 Supplementary hearings

Mr Colless moved: That the committee hold no further hearings to consider matters relating to the Transport and Infrastructure portfolios.

Question put.

Ayes: Mr Brown, Mr Colless, Mr Fang, Mr MacDonald

Noes: Mrs Houssos.

Question resolved in the affirmative.

7. Inquiry into the sustainability of the dairy industry in New South Wales

7.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: Submission nos. 1-4, 7-10, 12-17.

7.2 Partially confidential submissions

Resolved, on the motion of Mr Fang: That the committee keep the identity of the authors and/or sensitive information of submission nos 5, 6 and 11 confidential as per the request of the authors.

7.3 Attachments

Resolved, on the motion of Mr Fang: That the committee keep attachments to submission nos 4, 12 and 13 confidential as per the request of the authors.

7.4 Answers to questions on notice

Resolved, on the motion of Mr Colless that due to the short reporting timeframe of this inquiry answers to questions on notice and supplementary questions be provided within 7 days.

7.5 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witness was sworn and examined:

- Mr Greg Schofield, Dairy Farmer

Mr Schofield tabled various documents relating to the costs of his farm.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Robert Miller, Dairy Farmer
- Ms Tracey Russell, Dairy Farmer

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Peter Middlebrook, Dairy Farmer
- Mrs Jane Middlebrook, Dairy Farmer

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mrs Sue Boyd, Dairy Farmer
- Mr David Boyd, Dairy Farmer

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Professor Ian Lean, Managing Director, SciBus

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Tim Cochrane, Dairy Farmer
- Mrs Cathie Cochrane, Dairy Farmer

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Evan Hayes, Dairy Farmer

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Ian Zandstra

The evidence concluded and the witnesses withdrew.

The public and media withdrew.

7.6 Tendered documents

Resolved, on the motion of Mr Fang: That the committee accept the following documents tendered during the public hearing:

- Various documents tendered by Mr Schofield relating to the costs of his farm.

Resolved, on the motion of Mr Fang: That the committee keep the various documents tendered by Mr Schofield relating to the costs of his farm confidential.

8. Invitations to retailers and processors

The committee noted that retailers and processors have declined to attend to give evidence.

Resolved, on the motion of Mr Fang: That the Chair formally write to processors, including Parmalat, and ask that they reconsider the invitation to give evidence.

Resolved, on the motion of Mr Fang: That the Chair formally write to Woolworths and Coles, to ask that they reconsider the invitation to give evidence, noting that the committee has the power to compel the attendance of witnesses, and will consider summoning if the invitation is declined.

9. Adjournment

The committee adjourned at 3.57pm (until 9.00am Friday 16 November 2018 – Sydney Hearing) .

Rebecca Main
Committee Clerk

Minutes no. 76

Friday 16 November 2018
Portfolio Committee No. 5 – Industry and Transport
Macquarie Room, Parliament House, Sydney at 8.50 am

1. Members present

Mr Colless, *Acting Deputy Chair*
Mr Fang
Mr Graham (substituting for Mrs Houssos)
Mr MacDonald
Mr Pearson

2. Apologies

Mr Brown

3. Chair

In the absence of the Chair, the Deputy Chair took the Chair.

4. Deputy Chair

Resolved, on the motion of Mr Fang: That Mr Colless act as Deputy Chair for the meeting.

5. Previous minutes

Resolved, on the motion of Mr Colless: That draft minutes no. 75 be confirmed.

6. Correspondence

The committee noted the following items of correspondence:

Sent:

- 9 November 2018 – Letter from Chair to the Hon Pru Godward MP, advising the committee will be in her electorate holding a hearing for the dairy industry inquiry
- 13 November 2018 – Letter from Chair to Mr Brad Banducci, Managing Director, Woolworths Group, requesting Woolworths reconsider the committee's invitation to give evidence, noting the committee will consider issuing a summons if the invitation is declined again
- 13 November 2018 – Letter from Chair to Mr Steven Cain, Managing Director, Coles, requesting Coles to reconsider the committee's invitation to give evidence noting the committee will consider issuing a summons if the invitation is declined again
- 13 November 2018 – Letter to Mr Nigel Ulrich, General Manager Legal, Parmalat Australia, requesting Parmalat to reconsider the committee's invitation to give evidence
- 13 November 2018 – Letter to Manager Director, Murray Goulbourn, requesting them to reconsider the committee's invitation to give evidence.

Received:

- 7 November 2018 – Email from Mr Nigel Ulrich, General Manager Legal, Parmalat Australia - declining to appear at 16 November hearing
- 9 November 2018 – Email from Ms Michelle Willingham, Executive Assistant, McColl's Transport, advising that McColl's is unable to attend 16 November hearing
- 14 November 2018 – Email from Mr Christian Bennet, Head of Government Relations and Industry Affairs, Woolworths, indicating they will look into the availability of appropriate witnesses
- 14 November 2018 – Email from Ms Vittoria Bonn, Government and Industry Relations Manager, Coles, indicating availability to appear via teleconference and suggesting the afternoon of 26 November
- 14 November 2018 – Letter from Mr Nigel Ulrich, General Manager Legal, Parmalat Australia, indicating they do not intend to participate in the inquiry
- 14 November 2018 – Email from Mr Alex Evans, Head of Communications, Saputo Dairy Australian, indicating availability to appear before the committee
- 14 November 2018 – Email from Mr Rob Collier, CEO, Riverina Fresh, indicating willingness to appear before the committee.

7. Inquiry into the sustainability of the dairy industry in New South Wales**7.1 Public submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: Submission nos. 18-23.

7.2 Partially confidential submissions

Resolved, on the motion of Mr MacDonald: : That the committee keep sensitive information of submission no 13 confidential as per the request of the author.

7.3 Confidential submission

Resolved, on the motion of Mr Fang: That the committee keep supplementary submission 23a confidential as per the request of the authors.

7.4 Retailers and processors

Resolved, on the motion of Mr Fang: That the following organisations be invited to attend a hearing on Monday 26 November 2018:

- Woolworths
- Coles
- Parmalat
- Bega Cheese
- Riverina Fresh
- Saputo.

7.5 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witnesses were sworn and examined:

- Mr Scott Hansen, Director-General, NSW Department of Primary Industries
- Mr Alex Russell, Manager Intensive Livestock, NSW Department of Primary Industries

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Colin Thompson, Vice Dairy Chair, NSW Farmers' Association,
- Ms Annabel Johnson, Policy Director Livestock, NSW Farmers' Association
- Mr Ash Salardini, Chief Economist, NSW Farmers' Association

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Michael Jeffery, Deputy Chairman, Norco Cooperative Limited
- Mr Greg McNamara, Acting CEO and Chairman, Norco Cooperative Limited

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr MarcusBezzi, Executive General Manager, Specialised Advocacy & Enforcement, ACCC
- Ms Gabrielle Ford , General Manager, Agriculture, Advocacy & International, ACCC

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Phil Ryan, Dairy farmer, Bega

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Mark Kebbell, Executive Officer, Dairy Farmers Milk Co-operative Limited
- Mr John Bywater, Independent Director, Dairy Farmers Milk Cooperative.

8. Next meeting

Resolved, on the motion of Mr Fang: That, in the absence of the Chair and Deputy Chair at the meeting on Monday 19 November 2018, Mr Colless act as Chair.

9. Adjournment

The committee adjourned at 3.20 pm (until 8.45 am Monday 19 November 2018 – Taree

Rebecca Main

Committee Clerk

Minutes no. 77

Monday 19 November 2018
 Portfolio Committee No. 5 – Industry and Transport
 Casuarina Room, Club Taree, Taree at 8.47 am

1. Members present

Mr Colless, *Acting Chair*
 Mr Fang *Acting Deputy Chair*
 Mrs Houssos
 Mr Pearson

2. Apologies

Mr Brown
 Mr MacDonald
 Mr Veitch

3. Chair

In accordance with the resolution of the committee on 16 November 2018, in the absence of the Chair, Mr Colless is to act as Chair for the meeting.

Mr Colless took the Chair.

4. Deputy Chair

Resolved, on the motion of Mr Pearson: That Mr Fang act as Deputy Chair for the meeting.

5. Inquiry into the sustainability of the dairy industry in New South Wales**5.1 Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witness was sworn and examined:

- Mr Tim Bale, Dairy farmer, Chairman, Taree Collective Bargaining Group

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Shaughn Morgan, Chief Executive Officer, Dairy Connect
- Mr Graham Forbs, President, Farmers Group, Dairy Connect,

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Trevor Middlebrook, Dairy farmer, Gloucester

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Debra Polson, Dairy farmer, Oxley Island
- Mr Graham Bird, Dairy farmer, Hannan Vale
- Mr Joel Dorries, Dairy farmer, The Bight
- Ms Jacqui Woolnough, Dairy farmer, Dyers Crossing

- Ms Narelle Polley, Dairy farmer, Kimbriki
- Mr John Polley, Dairy farmer, Kimbriki

The evidence concluded and the witnesses withdrew.

6. Site visit

The committee visited a local dairy farm in Upper Lansdowne and received a briefing from the following representatives:

- Mr Adrian Drury, Dairy farmer
- Mrs Stella Drury, Dairy farmer.

7. Adjournment

The committee adjourned at 3.00 pm (until 8.45 am Monday 26 November 2018 – Parliament House, Sydney)

Rebecca Main
Committee Clerk

Minutes no. 78

Monday 26 November 2018

Portfolio Committee No. 5 – Industry and Transport

Macquarie Room, Parliament House, Sydney at 1.00 pm

1. Members present

Mr Brown, *Chair*

Mr Veitch *Deputy Chair*

Mr Colless

Mrs Houssos

Mr MacDonald

Mr Pearson

2. Apologies

Mr Fang

3. Minutes

Resolved, on the motion of Mrs Houssos: That draft minutes nos. 76-77 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received:

- 16 November 2018 – Email from Christian Bennett, Head of Government Relations and Industry Affairs, Woolworths - update on Woolworths' availability to appear at a public hearing
- 21 November 2018 – Email from Mr Alex Evans, Head of Communications, Saputo - declining invitation to appear at 26 November hearing
- 21 November 2018 – Email from Emily Bird, Senior Corporate Counsel, Parmalat Australia - declining to attend 26 November hearing

Sent:

- 15 November 2018 – Letter from the Chair to Mr Stephen Bromhead MP, Member for Myall Lakes, advising of 19 November hearing in Taree
- 20 November 2018 – Letter from the Chair to Mr Steven Cain, Coles Managing Director, inviting Cole to appear at 26 November hearing
- 20 November 2018 – Letter from the Chair to Mr Brad Banducci, Woolworths Group Managing inviting Woolworths to appear at 26 November hearing
- 20 November 2018 – Letter from the Chair to Mr Nigel Ulrich, General Manager Legal, Parmalat, inviting Parmalat to appear at 26 November hearing

5. Inquiry into Budget Estimates 2018-2019 5.1 Consideration of Chair's draft report**5.1 Consideration of Chair's draft report, entitled 'Budget Estimates 2018-2019'.**

Resolved on the motion of Mr Colless: That:

The draft report be the report of the committee and that the committee present the report to the House; The transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;

Upon tabling, all unpublished transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;

The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

That the report be tabled on Wednesday 28 November 2018.

6. Inquiry into the sustainability of the dairy industry in New South Wales**6.1 Public hearing**

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witnesses were sworn and examined (*via teleconference*):

- Mr Tony Parkinson, Head of Public Affairs, Coles
- Ms Vittoria Bon, Government and Industry Relations Manager, Corporate Affairs, Coles

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined.

- Mr Christian Bennett, Head of Government Relations and Industry Affairs, Woolworths
- Mr Paul Harker, Director of Fresh Foods, Group Replenishment and Buying support, Woolworths (*via teleconference*)

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Barry Irvin, Executive Chairman, Bega Cheese.

The evidence concluded and the witnesses withdrew.

7. Adjournment

The committee adjourned at 4.05 pm until 9.30 am, Tuesday 11 December 2018 – report deliberative.

Rebecca Main
Committee Clerk

Draft minutes no. 79

Tuesday 11 December 2018
Portfolio Committee No. 5 – Industry and Transport
Room 1136, Parliament House, Sydney at 2.30 pm

1. Members present

Mr Brown, *Chair*
Mr Graham (substituting for Mr Veitch)
Mr Colless
Mr Fang
Mrs Houssos
Mr MacDonald

2. Apologies

Mr Pearson

3. Minutes

Resolved, on the motion of Mrs Houssos: That draft minutes no. 78 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received:

- 23 November 2018 – Email from Rob Collier, CEO Riverina Fresh, advising that Riverina Fresh is unable to appear at public hearing
- 26 November 2018 – Letter from Mr Scott Hansen, Director General, Department of Primary Industries, providing clarification to transcript
- 26 November 2018 – Letter from Mr Tim Cochrane and Mrs Cathie Cochrane, providing clarification to transcript
- 27 November 2018 – Letter from Professor Ian Lean, Managing Director Scibus, providing clarification to transcript
- 3 December 2018 – Email from Adrian and Stella Drury, approving paragraph for use in inquiry final report
- 4 December 2018 – Letter from Mr Barry Irvin – Executive Chairman, Bega Cheese, providing clarification to transcript
- 5 December 2018 – Letter from Christian Bennett, Head of Government and Industry Affairs, Woolworths Group, including answers to questions on notice and declining request to provide an example of a contract with processor
- 6 December 2018 – Letter from Nigel Ulrich, General Manager Legal, Parmalat Australia, declining request to provide an example of a contract with a retailer.

Sent:

- 28 November 2018 – Letter from Chair to Nigel Ulrich, General Manager Legal, Parmalat - requesting Parmalat provide an example of a contract with a retailer

- 28 November 2018 – Letter from the Chair to Christian Bennett, Woolworths – requesting a copy of the contract with a processor.

5. Inquiry into the sustainability of the dairy industry in New South Wales

5.1 Answers to questions on notice and supplementary questions

The committee noted that answers to questions on notice from the following witnesses were published by the committee clerk under the authorisation of the resolution appointing the committee:

- NSW Government – answers to questions on notice – received 28 November 2018
- Professor Ian Lean – answers to questions on notice – received 27 November 2018
- NSW Farmers Association – answers to questions on notice – received 22 November 2018
- Norco Co-operative Ltd – answers to questions on notice – received 28 November 2018
- Australian Competition and Consumer Commission – answers to questions on notice and supplementary questions – received 28 November 2018
- Mr Tim Bale – answer to supplementary questions – received 30 November 2018.
- Coles – answers to questions on notice – received 5 December 2018
- Woolworths – answers to questions on notice – received 5 December 2018

5.2 Confidential answers to questions on notice

Resolved, on the motion of Mrs Houssos: That the committee keep confidential the answer to question on notice RH Boyd & Son Pty Ltd, as per the request of the author.

5.3 Transcript clarifications

Resolved, on the motion of Mr MacDonald: That the committee authorise the publication of correspondence from the following witnesses clarifying their evidence at the public hearings and the inclusion of a footnote in the relevant transcripts noting the transcript clarification:

- 26 November 2018 – Letter from Mr Scott Hansen, Director General, Department of Primary Industries, providing clarification to transcript
- 26 November 2018 – Letter from Tim and Catherine Cochrane, providing clarification to transcript
- 27 November 2018 – Letter from Professor Ian Lean, Managing Director Scibus, providing clarification to transcript
- 4 December 2018 – Letter from Mr Barry Irvin - Executive Chairman, Bega Cheese, providing clarification to transcript

5.4 Consideration of Chair's draft report, entitled 'Sustainability of the dairy industry in New South Wales'.

The Chair submitted his draft report, entitled *Sustainability of the dairy industry in New South Wales*, which having been previously circulated, was taken as being read.

Chapter 1

Resolved on the motion of Mrs Houssos: That the following new paragraph be inserted after paragraph 1.3:

'Despite this, the NSW dairy industry operates year round, in contrast to the production in Victoria, which is seasonal. This does result in increased costs of production, including requiring non-milking periods for cows and the purchase of additional feed'.

Chapter 2

Resolved on the motion of Mr Graham: That paragraph 2.25 be amended by omitting 'Based on the evidence received during our inquiry, the committee questions the ACCC's conclusion that the farmgate price paid to farmers for milk used to fulfil private label milk contracts is not directly correlated with private label milk retail prices.' and inserting instead:

'The committee received evidence that questioned the ACCC's conclusion that the farmgate price paid to farmers for milk used to fulfil private label milk contracts is not correlated with private label milk retail prices.'

Resolved on the motion of Mr Graham: That paragraph 2.25 be amended by omitting 'enabling farmers to increase their farmgate price'.

Resolved on the motion of Mrs Houssos: That paragraph 2.25 be amended by inserting the following sentence at the end of the paragraph: 'However, there remains a lack of transparency across the supply chain'.

Resolved on the motion of Mr Graham: That paragraph 2.26 be amended by omitting 'to the detriment of farmers' and inserting instead 'This has contributed to financial pressure on NSW dairy farmers'.

Resolved on the motion of Mr Graham: That paragraph 2.27 be omitted: 'Accordingly, the committee recommends that the NSW Government work with retailers to devise a mechanism through which retail prices are increased, such as expanding the current 'drought levy' some retailers have on certain milk products, to ensure that the retail price of milk is reflective of its value, including to account for ongoing increases in cost of production', and the following paragraph be inserted instead:

'Accordingly, the committee recommends that the NSW Government work with retailers to consider expanding mechanisms, such as the current 'drought levy' some retailers have on certain milk products, to ensure that the retail price of milk takes account of the ongoing increases in cost of production'.

Resolved on the motion of Mr Graham: That Finding 1 be amended by omitting 'to the detriment of farmers' and inserting instead 'This has contributed to financial pressure on NSW dairy farmers'.

Mr Graham moved: That the Recommendation 2 be omitted: 'That the NSW Government work with retailers to devise a mechanism through which retail prices are increased to ensure that the retail price of milk is reflective of its value, including to account for ongoing increases in cost of production', and the following new recommendation be inserted instead:

'The committee recommends that the NSW Government work with retailers to consider expanding mechanisms such as the current 'drought levy' some retailers have on certain milk products, to ensure that the retail price of milk takes account of the ongoing increases in cost of production.'

Mr MacDonald moved: That the motion of Mr Graham be amended by inserting 'and to ensure the levy is returned to farmers in full' after 'increases in cost of production'.

Amendment of Mr MacDonald put and passed.

Original question of Mr Graham, as amended, put and passed.

Resolved on the motion of Mrs Houssos: That the following new paragraph be inserted after paragraph 2.26:

'The committee is cautious about an increased price for consumers, given rising rates of food insecurity. However, this must be weighed against the potential collapse of the dairy industry in NSW, which could result in a much higher price for milk for consumers'.

Resolved on the motion of Mr Fang: That the following new paragraphs be inserted after paragraph 2.63:

'Woolworths commented that it is open to expanding the Farmers Own arrangements but pointed out that meaningful expansion of the product is dependent on a number factors. These include the existence of consumer demand, as well as expanding the capability to manage the relationships with farmers and the management of commercial risks:

Woolworths is open to expanding Farmers' Own arrangements. To do so in a meaningful fashion, however, would of course require consumer demand for the Farmers' Own milk to continue to grow. Expansion is also not without its complexities – including further developing our existing business model to recruit and manage a larger number of farmer relationships (with

related resourcing requirements) as well as managing other related commercial risks. All such considerations remain under active consideration by Woolworths'.

[FOOTNOTE: Answers to questions on notice, Woolworths Group, 5 December 2018, p 1.]

Resolved on the motion of Mrs Houssos: That the following new paragraph be inserted after paragraph 2.104:

'Moreover, this is exacerbated by the uncertainty within the existing contract structure, which also fails to give farmers the confidence to make appropriate investments to upgrade or improve their practices, which would also yield productivity gains'.

Resolved on the motion of Mr Graham that the following new finding be inserted after paragraph 2.104:

'Finding X

Analysis done as part of the Dairy Farm Monitor Project, shows that 2017-18 was the worst year for net farm income in New South Wales since 2011-12'.

Chapter 3

Resolved on the motion of Mr Graham: That paragraph 3.75 be amended by inserting the following dot point after 'in negotiations with dairy processors':

- 'provide advice to farmers to engage in collective bargaining where appropriate'.

Resolved on the motion of Mr Graham: That Recommendation 7 be amended by inserting the following dot point after 'in negotiations with dairy processors':

- 'provide advice to farmers to engage in collective bargaining where appropriate'.

Resolved on the motion of Mr Graham: That Recommendation 9 be amended by removing 'including consideration of whether the NSW Commissioner for Dairy should undertake this role'.

Resolved on the motion of Mr MacDonald: That:

- The draft report as amended be the report of the committee and that the committee present the report to the House;
- The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- That the report be tabled on Thursday 13 December 2018.

6. Adjournment

The committee adjourned at 3.15 pm until *sine die*.

Rebecca Main
Committee Clerk

