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11 January 2021

The Hon Mark Banasiak MLC  
Chairman  
Portfolio Committee 4 – Industry  
Parliament House  
6 Macquarie Street  
SYDNEY NSW 2000

By email: [PortfolioCommittee4@parliament.nsw.gov.au](mailto:PortfolioCommittee4@parliament.nsw.gov.au)

Dear Mr Banasiak,

**Re: Inquiry into the long-term sustainability of the dairy industry in NSW – matters taken on notice**

I refer to the appearance of the representatives of Dairy Connect before the NSW Parliamentary Portfolio Committee 4 (Industry) in relation to its 'inquiry into the long-term sustainability of the dairy industry in NSW' on Wednesday, 4 November 2020.

Dairy Connect valued the opportunity to participate in this important and on-going inquiry into the NSW dairy industry. We extend our thanks to you and the members of the Committee for agreeing to an extension for the provision of the attached information (and marked 'A') which had been taken on notice.

As we have indicated previously, Dairy Connect continues to support the intent and spirit of its terms of reference and we look forward to the release of its report, in due course.

It is apparent that NSW, as a fresh milk State, has many differences to other parts of the Australian dairy landscape. As we indicated in our submission, "the question that needs to be asked now for a NSW dairy industry is not will it be sustainable and how best to ensure that outcome but rather will a NSW dairy industry survive past the current generation of dairy farmers within the State".

Representatives of Dairy Connect remain available to assist the Committee in its further deliberations, if required, and we extend our appreciation to you and the members of the Committee for the holding of this Inquiry.

Yours Faithfully,

A handwritten signature in blue ink, appearing to read "Shaughn Morgan".  
Shaughn Morgan  
Chief Executive Officer

## Dairy Connect – matters taken on notice during the 'inquiry into the long-term sustainability of the dairy industry in NSW'

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### Dairy farmers and banks – relationship and obtaining finance

Following on a request from the Committee regarding the relationship between dairy farmers and their banks, including their ability to obtain appropriate finance, Dairy Connect undertook a survey of its members to ascertain their responses.

The survey results demonstrates that the impacts of the lack of profitability is not just affecting farms, but also support industries as 93% of farms extended their terms for supply.

Further, a significant number (92%) re-financed, but were allowed or encouraged to extend overdraft while still paying principal and interest. This is effectively a very punitive measure that effectively markedly increases the impost on farmers.

Approximately 40% of respondents found it difficult to restructure using government loans. In all, this provides evidence that greater flexibility and accountability is needed for banking for the dairy industry.

The survey does illustrate a degree of flexibility where some banks are allowing the use of cows as collateral.

While the answers to the questions may be found below, which are generally self-explanatory, representatives of Dairy Connect as well as Professor Lean would be pleased to meet with members of the Committee to further expand upon these responses, if required.

#### **Q1: During the past few years, Did you slow repayments to suppliers (eg seed, feed, fertilizer companies etc) beyond usual terms?**

Yes: 92.3%  
No: 7.7%

#### **Q2: Did you seek to refinance?**

Yes: 53.8%  
No: 46.2%

#### **Q3: Did you increase use of overdraft?**

Yes: 92.3%  
No: 7.7%

#### **Q4: Did you maintain payment of bank interest on loans during the last 3 years?**

Yes: 92.3%

No: 7.7%

**Q5: Did you pay back capital on bank loans?**

Yes: 23.1%

No: 76.9%

**Q6: Did the bank allow you to extend your overdraft while repaying interest on loans or interest and capital?**

Yes: 84.6%

No: 15.4%

**Q7: Does your bank allow you to use livestock as collateral?**

Yes: 53.8%

No: 46.2%

**Q8: Would being able to use stock as collateral help you make new investments?**

Yes: 53.8%

No: 46.2%

**Q9: Did you wish to restructure finance on the farm and find banks unwilling to help you access government loans?**

Yes: 38.5%

No: 61.5%

The following comments were made by our Members (answers are unedited except to correct typographical errors as well as being anonymized, both as to the identity of the dairy farmers and the banks to which they refer):

- "Current liabilities increased substantially, we were going backwards fast. The milk price in no way reflected the increasing cost of production."
- "Riverina farmers would have been able to manage the financial pressure of the drought had the water market not been so corrupt. It's a tough issue for Dairy Connect but water is a major input of our business. Unless it's sorted out and dairy has irrigation water available to our businesses, next drought could well see the end of dairying in the Riverina. Thank you Dairy Connect."
- "Our business was abandoned by one bank (**(name withheld)**) but supported by another (**(name withheld)**). The Royal Commission really slowed up our applications."
- "**(name withheld)** bank reduced their interest rate at the time of drought which was a big help but as we come out of drought, we are finding it harder to refinance as we are in more debt due to drought while receiving the same payment for our milk. The banks can't seem to think six months in front ie feed prices drop our profits rise, they work on money paid for our milk which is worrying and not on forecast ie they need yearly figures to lend money."
- "The Banks seems committed to not lending for new investment in agriculture by applying new rules which mean drought effected farm business in recovery do not have access to new loans".
- "**(name withheld)** was great".



Overall, the sample answers provided by Dairy Connect members confirms a difficult (and at times) uncertain working relationship with their banks. The answers reveal a reliance on bank-overdraft facilities as well as a slowing of repayments to suppliers among our members.

A number of our members would be willing to consider providing evidence to the Committee, if such evidence is provided 'in complete confidence'.

### **NSW Parliamentary Committee Inquiry into the Sustainability of the Dairy Industry in New South Wales (report - December 2018)**

In December 2018, the NSW Parliamentary Inquiry into the sustainability of the dairy industry in NSW delivered its report. A copy of the report may be viewed at

<https://www.parliament.nsw.gov.au/lcdocs/inquiries/2514/Report%20No%2051%20-%20Sustainability%20of%20the%20dairy%20industry%20in%20NSW.pdf>

In the foreword to the report, the then Chairman of the Committee, the Hon Robert Brown MLC, stated: "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 so many new South Wales businesses from collapse.***" (our highlight)

It is the view of Dairy Connect that these comments remain as true today as they were when they were written in December 2018.

In this report, the Committee made 4 findings and 10 recommendations. The Government's response to the findings and recommendations, provided on 22 February 2019, may be viewed at:

<https://www.parliament.nsw.gov.au/lcdocs/inquiries/2514/Report%20No%2051%20-%20Sustainability%20of%20the%20dairy%20industry%20in%20NSW.pdf>

It is the view of Dairy Connect that the response of the NSW Government was overly general, lacking in detail and bureaucratic in nature. This response, in the view of Dairy Connect, is to be regretted and a lost opportunity for positive and pro-active steps. It should not be a requirement for an agricultural commodity to be seen to be in 'the hues of death' to obtain strong government intervention.

It is respectfully submitted that the undertakings given by the NSW government in the lead up to the state election have not been met and nor have the recommendations with respect to the appointment of a 'fresh milk and dairy advocate' by the then Committee been addressed.

For your assistance, the recommendation relating to the appointment of a 'NSW Commissioner for Dairy' may be found in the report published December 2018. The recommendation read:

#### **"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."

It is submitted that this, amongst other recommendations, have not been appropriately implemented by the NSW Government. Dairy Connect continues to stand by its submission, as enunciated at pages 9 and 10 of our submission to the Committee.



## **Australian Competition and Consumer Commission (ACCC) Inquiry into the competitiveness of prices, trading practices and the supply chain in the Australian dairy industry (Dairy Inquiry) – recommendations**

The ACCC Dairy Inquiry was referred by the Treasurer to the ACCC pursuant to subsection 95H(1) of the Competition and Consumer Act 2010 in October 2016. The ACCC provided its final report in April 2018. A copy of the report may be found at:

[https://www.accc.gov.au/system/files/1395\\_Dairy%20inquiry%20final%20report.pdf](https://www.accc.gov.au/system/files/1395_Dairy%20inquiry%20final%20report.pdf)

The ACCC made eight recommendations (at page XXV of the final report):

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 minimising 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.** (our highlight)

Recommendation 8 put forward a 'mandatory code of conduct' for the Australian dairy industry (Dairy Code). Importantly, this recommendation embraced the other recommendations and started the long process for a restoration of 'trust, openness and transparency' in the relationship between the dairy farmer and their processor.

In terms of implementation, the Dairy Code came into effect on 1 January 2020 and became mandatory for all milk supply agreements between dairy farmers and processors on 1 January 2021. Dairy Connect supports the Dairy Code as in our view, it has proven a valuable tool for dairy farmers and processors as it establishes minimal standards of conduct, with the availability of penalties being imposed for breaches.

Dairy Connect has also submitted that extending the Dairy Code (or something similar) to include supermarkets would be a positive step in ensuring a viable future for the Australian Dairy Industry and thus ensuring a strong dairy value-chain.

### **'Dairy Floor Price' - international jurisdiction**

There has been a 'dairy floor price' in Canada. The 'support price' is determined by the Canadian Dairy Commission (CDC) after consultation with industry stakeholders. As a first step, the CDC undertakes an annual national study of the cost of producing milk at the farm, which forms the basis of setting the support price.

It is set for butter and skim milk powder, which is then used by regional boards to determine minimum prices for raw or industrial milk.

The CDC is an Ottawa-based Government of Canada Crown Corporation that plays a role of administrator, facilitator and stakeholder in the public policy related to the Canadian dairy industry. The CDC's mandate is to coordinate dairy policies in a jurisdiction that is shared between both provincial and federal governments.

In the early 1970s, when the dairy industry became the first industry in Canada to be operated under the national supply management system, the CDC was named as facilitator and administrator

coordinating dairy policies and providing a framework for the management of the Canadian dairy industry.

In addition to the *dairy support price* the CDC maintains milk pooling arrangements and sets Market Sharing Quotas as part of supply management.

In the European Union, there is no fixed dairy floor price system, like in Canada, but dairy producers are supported with a range of measures, assuring support for the industry.

Measures include public intervention, which consists of the buying up of a good by public authorities, placing it in public storage for as long as needed, until market conditions allow for its release back on to the market. In the case of the dairy sector, public intervention is available for butter and skimmed milk powder.

Furthermore, there are subsidies for private storage as well as a strict import regime, requiring importers to hold a licence and pay tariffs on imported milk.

Dairy Connect has highlighted that the Australian dairy farmer competes with dairy producers from similar economies (Canada, EU) that enjoy a far greater degree of subsidies and support.

Especially as the Canadian *dairy support price* gives a good example of how producer support mechanisms can be sustained in an advanced market economy. Further information may be found at: <https://cdc-ccl.ca/index.php/en/supply-management/support-prices/> and [https://ec.europa.eu/info/food-farming-fisheries/animals-and-animal-products/animal-products/milk-and-dairy-products\\_en](https://ec.europa.eu/info/food-farming-fisheries/animals-and-animal-products/animal-products/milk-and-dairy-products_en)