

**INQUIRY INTO LONG-TERM SUSTAINABILITY OF THE  
DAIRY INDUSTRY IN NEW SOUTH WALES**

**Organisation:** NSW Farmers  
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# **Submission to the Upper House Inquiry into the long-term sustainability of the dairy industry in New South Wales**

October 2020

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## About NSW Farmers

### **A profitable and sustainable New South Wales farming sector**

The NSW Farmers' Association is Australia's largest state farming organisation representing the interests of its farmer members. NSW Farmers is Australia's only state-based farming organisation that represents the interests of farmers of all agricultural commodities. Our purpose is to build a profitable and sustainable New South Wales farming sector.

Our focus is not just on issues affecting particular crops or animals – it extends to the environment, biosecurity, water, economics, trade, and rural and regional affairs. Our industrial relations section provides highly specialised advice on labour and workplace matters.

Farmers across New South Wales produce more than \$12 billion worth of food and fibre every year, including over \$6 billion in exports, representing around one quarter of Australia's total agricultural output.

Our regional branch network ensures local voices guide and shape our positions on issues which affect real people in real communities. Our Branch members bring policy ideas to Annual Conference, our Advisory Committees provide specialist, practical advice to decision makers on issues affecting the sector, and our 60 member Executive Council is the final arbiter of the policies of the Association.

## Executive Summary

NSW is the second largest dairy producing state in Australia. The dairy industry in NSW is unique, given its diverse geographical spread and associated environmental conditions. However, despite good rains in some regions in recent months, the drought persists in several regions and the significant impacts and challenges continue for all. Continued concerted action is required to ensure the ongoing sustainability of the industry. The NSW Government has an important role in supporting and growing the NSW dairy industry by investing in areas to facilitate growth and developing policies that support farmers' businesses.

The structure of the NSW dairy industry has undergone a dramatic shift since deregulation, most notably in the shift of power and tactics of retailers, especially with the development of private label products and loss-leading marketing tactics to drive consumers into stores. Ultimately these market conditions and industry structure have created a difficult environment for farmers to demand fair prices for their product, hindering farm profitability.

The severe and prolonged drought and consequent increased input costs further squeezed already tight margins, lead to lower on-farm investment and reduced confidence. Dairy farming input costs are significant, with considerable initial infrastructure costs to establish sheds, milk cooling facilities, and also ongoing price pressures in relation to the core resources of energy, water, and adequate skilled labour. 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.

The NSW Government has an ongoing role in supporting the NSW dairy industry with targeted investment and policy to support the industry recover and thrive. The introduction of the mandatory Dairy Code has added some protections for dairy farmers, but not delivered on the increased farm gate returns required to make the industry a long term viable option for many.

## Recommendations

NSW Farmers' makes the following recommendations for consideration to the Legislative Council:

1. That the NSW Government must make the NSW Agricultural Commissioner a statutory appointment and ensure a dedicated focus is placed on competition issues in agriculture, including the dairy sector, to help rebalance power relationships in supply chains.
2. That the NSW Dairy Advocate and their Industry Advisory Panel ensure a focus on competition and supply chain relationships is dominant in the Dairy Action Plan, currently under development.
3. That the NSW Government commit to invest to modernise the regional electricity network to deliver affordable, reliable, and sustainable energy. This includes
  - a. Committing to implement ACCC recommendations
  - b. Committing to reduce electricity prices by 20 per cent in four years, as per ACCC analysis.
  - c. Establishing a regional electricity innovation fund, as well as a fund to write off un-utilised regional network assets.
4. That the NSW Government increase investment in programs for water infrastructure to enhance efficiency and increase productivity.
5. That the NSW Government increase the harvestable right for Eastern Fall regions to 40 per cent for productive use.
6. The NSW Government support clear truth in labelling requirements for products regulating the use of the term 'milk' on non-dairy products.
7. That the NSW Government support the review and improvements to the Country of Origin Labelling reforms, to provide greater protection to Australian products and improve clarity to consumers regarding origin of food products.
8. The NSW Government support all dairy products receiving a minimum three health star rating.
9. That the NSW Government invest in programs that support the dairy industry in attracting and retaining workers who have skills necessary for working on a dairy farm.

10. The NSW Government should develop a State Policy that explicitly recognises the Right to Farm, to inform land use planning, infrastructure planning and other regional development and peri-urban activities
11. The newly appointed NSW Agricultural Commissioner must champion the Right to Farm. This required they have statutory powers to: review the planning frameworks and other laws that affect agricultural land; represent the interests of agriculture within government and be consulted on government policies and programs impacting the sector; and take an active role in educating the public about farming practices and building social license for farming.
12. Planning laws and statutory policies must ensure a streamlined process for approving agricultural development, as well as adequate and meaningful consideration of key issues that are impacting agricultural production and regional communities. These include: changes that reduce existing land used rights or productivity must be offset to the land owner; impacts on farmers existing water entitlements from peri-urban development and mining; loss of farm land and food security; lack of strategic regional infrastructure planning and access to critical infrastructure; and conflicts with incompatible land uses.
13. That the NSW Government enhance investment in business management and skills programs
14. That the NSW Government resource education programs about farming systems to enhance community understanding.
15. Both the NSW Agricultural Commissioner and the Dairy Advocate must have competition reform as a key priority and area of focus.
16. The Dairy Advocate's NSW Dairy Action Plan must have synergies with the Australian Dairy Plan to ensure the industry is working towards common goals at both a state and national level. This includes a significant focus on farm profitability and competition reform along the supply chain.
17. Greater definition of the role of the Advocate should be provided and an engagement and communications plan developed to ensure the role can be an effective conduit for industry between policy, advocacy and legislation. NSW Farmers welcomes the opportunity to work collaboratively with the Advocate in delivering such a plan.



## Relationships in the value chain

There is a clear market power imbalance in the dairy supply chain. 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. The farmers who supply the market have also had to adapt and economies of scale have led to fewer and larger farms.

The Australian dairy supply chain has four distinct relationships: dairy farmer – processor; dairy farmer – retailer; processor – retailer; and retailer – consumer. Each of these relationships is subject to power imbalances between participants. By virtue of their position at the beginning of the supply chain, farmers have limited opportunity to resist pressures and risk applied by the processor and retailer.

### Farmer - processor

The competition in the processor sector plays a direct role in the bargaining position of farmers. In the dairy supply chain, 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 ACCC dairy inquiry found that geographic markets in Victoria and southern NSW have higher levels of processor competition for raw milk, with dairy farmers having up to eight processors competing for their supply. In contrast, farmers in the central milk pool, which encompasses most of NSW, typically have less competition for their milk. Farmers are at a serious disadvantage when it comes to negotiating contract terms or price particularly as in the fresh milk market.

Traditionally dairy farmers would not challenge the prices or terms offered by a processor, as any renegotiation or conflict would mean spoilage of their milk and loss of income. This situation has been improved with the introduction of the mandatory Dairy Code, with farmers now provided greater certainty and around pricing and terms. However, farmers in NSW still operate in a more consolidated processor market, therefore limiting their negotiation power when dealing with processors and supply

contracts. This differs from farmers in more southern states, where there are far more processors, therefore more competition for supply, increasing the farmers options and leverage to negotiate.

Information disparity between farmers and processor continues to weaken farmers' bargaining position. Despite the implementation of the Dairy Code, many farmers are still faced with complex contracts that differ widely between each processor. 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. Steps to improve transparency and imbalance of bargaining power between farmers and processors, including the Mandatory Code, have been welcomed; however, further steps are required by some processors in this regard.

### Farmer - Retailer

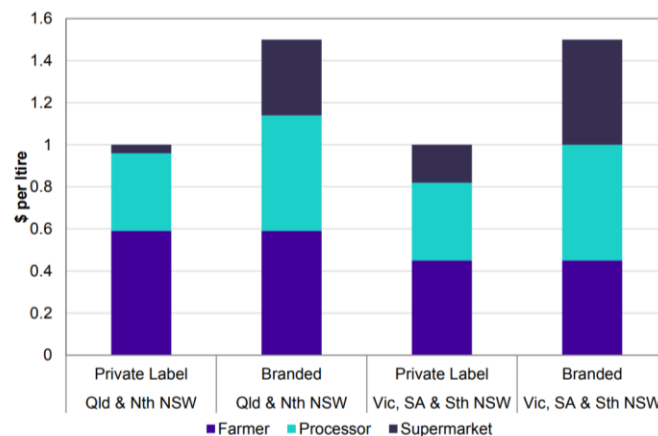
The direct interaction between the dairy farmer and the retailer works similarly to the Farmer – Processor relationship. Both are marked by a clear market power imbalance and the difference in bargaining power enables risk to be passed onto farmers. The transfer of commercial risks means that farmers operate with a high degree of uncertainty. Although the current price paid by retailers is higher compared with that paid by processors, this pricing is underpinned by the temporary drought and direct retail contracts have only offered to a small number of farmers who are located close to markets.

### Processor - Retailer

The Processor – Retailer relationship demonstrates that there is a strong link between the lack of competition in the processing sector and the control of the end market by only a few retailers. This correlation 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. As processors attempt to meet the fixed national price for dairy products set by retailers, their ability to pay farmers relative to their production costs becomes increasingly difficult. Further, processors are reluctant to speak up about these issues, assumedly due to fear of retribution from the retailers in supply contracts.

The power of the supermarkets is reflected in the analysis below (*Figure 1*) by the ACCC in 2017. This work looked at farm-gate, processor and retail prices for fresh milk; it highlights the strong bargaining position of the supermarkets and demonstrates the lion's share of any increase in retail prices went to the retailer. The processor was able to access small increases in value while, regardless of price differentials in the retail price of private label and branded fresh milk, the revenue for the farmer remained unchanged due to their weak bargaining position. The ACCC also failed to compare this price /

value distribution in current retail prices to that prior to the introduction of \$1/litre milk by the supermarkets.



Source: ACCC analysis from supermarket and processor data

Figure 1: Distribution of Revenue from the sale of fresh drinking milk

Perversely, the ACCC used this data to conclude that ‘dollar a litre’ private label milk has no adverse impacts on dairy farmers, that the impacts were felt by the reductions in margins for the processor and retailer, and as such were not a concern from a competition or market power perspective. 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.

### Retailer - Consumers

Australian consumers have a justified expectation that dairy products are safe and of high quality and retailers are able to meet this expectation. These products must also adhere to high standards of welfare, environmental management, and workplace relations. However, the desire for quality is accompanied by an expectation that the product will be low cost. The aggressive pricing of private label dairy products by supermarkets to the apparent benefit of the consumer highlights loss-leading practices. These supermarket practices negatively impact the dairy supply chain, and many other perishable goods supply chains, by shifting profit margins to alternate products ultimately deceiving the consumer and triggering market failure.

Dairy farmers are highly concerned with the ability of the retailers to squeeze margins from the rest of the supply chain, particularly with \$1 per litre milk and \$7 per kilo cheese. When the pricing campaigns for \$1 per litre milk were introduced nationally in 2011 the retailers reduced their own brand milk by 25 per cent overnight. This had an immediate impact on processors who in turn had to reduce pricing on their branded products to remain competitive. Lost margins were pushed down to the farmer as the unreasonable discounting of milk continued. As NSW is largely a fresh milk market, there has been considerable loss of profitability and sustainability from the farm sector, forcing many dairy farmers to exit the industry.

In addition to domestic pressure applied by retailers, the importation of cheap dairy products from subsidised or lower cost of production countries devalues dairy products across the entire chain. While free trade is important, the long-term impact of heavily discounted overseas products is concerning. As processors look to markets with higher returns, Australian consumers may be left to purchase inferior imported products.

### NSW Agricultural Commissioner

NSW Farmers commends the NSW Government on the recent appointment of its first Agricultural Commissioner, Mr Daryl Quinlivan. The appointment has a critical role in supporting the industry in NSW. Of priority is addressing systemic issues and barriers, identifying specific obstacles, and influencing meaningful change. A priority will be to advance an improved planning system by engaging agencies across government. Additionally, correcting competition issues within fresh food supply chains will be essential for primary producers to achieve fair returns for their products, in particular our dairy farmers. The current competition framework has failed to deliver real competition for farmers. The large market power of retailers has gone unchecked and this has allowed them to extract unreasonable margins, hollow out supply chains, and reduce investment in efficiency and innovation. For this reason it will be imperative that they work closely with agricultural unit of the ACCC to address these issues.

We now call on the NSW Government deliver their election commitment to make this a statutory position. A legislated Agriculture Commission will aid the independent identification and resolution of issues affecting agriculture across the state and influence meaningful change. An Agriculture Commissioner will lead this team to drive growth and prosperity for the sector.

### **RECOMMENDATIONS:**

- *That the NSW Government must make the NSW Agricultural Commissioner a statutory appointment and ensure a dedicated focus is placed on competition issues in agriculture, including the dairy sector, to help rebalance power relationships in supply chains.*
- *That the NSW Dairy Advocate and their Industry Advisory Panel ensure a focus on competition and supply chain relationships is dominant in the Dairy Action Plan, currently under development.*

# The impact of external influences on the dairy industry

The profitability of dairy farms is affected by input costs and the margin from the farm gate milk price. The NSW dairy industry operates in a high-cost environment. Australia is a first-world country with high and justified expectations of quality, as well as important environmental, employment, and animal welfare standards. Farms also must use several key inputs, including energy and water. While the costs of these key resources have increased, the farm gate milk price has remained largely unchanged. NSW dairy farms are more vulnerable to input price increases as they have generally become more intensive since deregulation, meaning they are increasingly reliant on these resources.

## Energy

The energy profile for a dairy operation is higher than most agricultural industries. Energy reliance is largely because cows require milking twice a day, and milk needs to be refrigerated on farm in bulk tanks until collected by the processor (typically within 24 to 48 hours). This energy use can equate to approximately 20 per cent of a farm's operating costs.

Dairy farmers are also indirectly impacted by energy cost increases incurred by processors. Analysis undertaken by Dairy Australia suggests that the current cost of energy (electricity and gas) for dairy processors is in excess of \$170 million. These increased costs impact on farm-gate milk prices.

Of equal concern is the increased risk of supply disruptions. Farms will be affected differently. For example, power blackouts will cause significant issues at sites that blow-mould their own plastic milk bottles, including significant times required to restart production lines. Blackouts would likely render unfinished dairy products within process lines and storage vats unusable, and lead to loss of production at critical times that may affect a processor's ability to meet supply contracts, which carries severe commercial implications. In addition, the cost of acquiring and maintaining back-up diesel or gas generation adds significant costs to a business that already operates on small margins.

A more affordable, reliable, and sustainable energy sector is needed for the sustainability of the dairy industry.

### **RECOMMENDATION:**

*That the NSW Government commit to invest to modernise the regional electricity network to deliver affordable, reliable, and sustainable energy. This includes*

- d. Committing to implement ACCC recommendations*
- e. Committing to reduce electricity prices by 20 per cent in four years, as per ACCC analysis.*
- f. Establishing a regional electricity innovation fund, as well as a fund to write off un-utilised regional network assets.*

### **Water**

Water availability is a priority in the dairy industry. Dairy farmers throughout the state depend on continuous water access, through irrigation licenses, as well as access to feed from out-of-season and off-farm sources. Dairy farmers are currently being pressured with increasing prices and greater competition for water resources. The Murray Darling Basin Plan is impacting the on-farm productivity and profitability of dairy farmers.

To ensure that dairy farmers can access affordable and reliable water resources there is a need for greater incentives to enable investment in water infrastructure to better adapt to increasing climate variability. The Lachlan Valley is a growth area for the dairy industry and there is a need to ensure this area has the water resources available to continue this growth into the future. The Government has committed to raising the Wyangala wall. While this will make a significant difference to the water security in this area, more is needed.

Farmers need government to provide assistance in making on-farm water development. Currently this support is being provided in the form of the Farm Innovation Fund and the On-Farm Emergency Water Infrastructure Rebate program, which has enabled investment in water resources for improved drought resilience to minimise reliance on external feed. NSW Farmers supports the On-Farm Emergency Water Infrastructure Rebate and the recent extension of this program.

Farmers in coastal/eastern fall regions have access to a 10 per cent harvestable right. This low harvestable right in relation to the rainfall patterns reduces the opportunities for farmers to expand their businesses. Farmers in eastern fall regions are seeking an increased harvestable right to improve on-farm water security, reflective of the higher and more frequent rainfall patterns in the eastern fall regions.

### **RECOMMENDATIONS:**

- *That the NSW Government increase investment in programs for water infrastructure to enhance efficiency and increase productivity.*
- *That the NSW Government increase the harvestable right for Eastern Fall regions to 40 per cent for productive use.*

### **Truth in Labelling**

The dairy industry faces growing competition from plant-based beverages that are gaining a market advantage from being presented as milk ‘alternatives’. Beverages derived from ingredients like soy, almond, cashew, oat and hemp are utilising the term ‘milk’ in labelling and packaging, despite typically having a different nutrient profile to dairy milk. For example, almond-based beverages contain significantly less protein, calcium and fat than dairy products. Not only could this potentially harm uninformed consumers, it unfairly allows non-dairy product brands to co-opt the label ‘milk’.

NSW Farmers considers that the term milk should strictly apply to dairy products. We welcome the ongoing efforts of the Australian Government and Minister for Agriculture ongoing efforts in this regard through the Australia and New Zealand Ministerial Forum on Food Regulation and seek ongoing support of the NSW Government in this space.

Country of origin labelling is a further area for review in dairy, for cheese products in particular. There are several name brands and retail private label cheese products that label their products as ‘made in Australia’ where in fact the only processing undertaken here is the cutting and packaging of imported cheese. Branding of these products can be further misleading to consumers, with names that indicate they are of Australian origin, whilst having no relationship with Australian dairy farmers, rather also only packaging imported cheese.

These practices significantly undermine our local industries as they are unable to compete on a price point, with Australia having higher labour and regulatory costs than many exporting countries. Food safety may also be a concern across imported foods labelled ‘made in Australia’ if regulations around food safety and preparation in the country of origin are inferior to Australia. Anecdotally, consumers avoid imported products if they believe the product is from a country with inferior food-safety measures to Australia. The current labelling laws make it difficult for consumers to make this assessment.



Finally, the dairy industry has long held a position that all dairy products should receive a minimum three star health rating under the Health Star Rating (HSR) system. Dairy products such as milk, cheese and yoghurt have scientifically-proven health benefits, and are identified as one of the Five Food Groups in Australia's Dietary Guidelines. Despite this, many Australians consume below the suggested amount of dairy and are failing to meet daily calcium recommendations. We believe that in order to reverse this concerning trend, greater consumption of dairy products needs to be encouraged and this could be assisted through ensuring a three star HSR minimum for all dairy products.

Reforming the HSR to recognise the benefits of dairy products is of mutual benefit to both consumers and dairy farmers. Consumers can be assured of the health benefits of dairy products and dairy farmers would benefit from increased demand for their product.

### **RECOMMENDATIONS**

- *The NSW Government support clear truth in labelling requirements for products regulating the use of the term 'milk' on non-dairy products.*
- *That the NSW Government support the review and improvements to the Country of Origin Labelling reforms, to provide greater protection to Australian products and improve clarity to consumers regarding origin of food products.*
- *The NSW Government support all dairy products receiving a minimum three health star rating.*

### **Market Development**

With domestic milk prices low, and demand for dairy milk decreasing, export markets are becoming increasingly important for NSW dairy. The prospect of growing overseas markets is, however, threatened by the anti-competitive conditions imposed by international trade agreements. For example, the European Union has requested Australia accept its extensive geographical indications (GI) program in its proposed free trade agreement (FTA) with Australia. While the FTA has potential to deliver valuable trade opportunities for Australian agriculture, it could hinder the competitiveness of our dairy brands in overseas markets. Widely used cheese names like Feta, Parmesan and Gruyere risk being protected through the GI program, meaning only farmers in certain areas of Europe will be able to use these names on their products. Names like Feta and Parmesan have highly embedded associations with certain cheese types, so denying their use would cause substantial consumer confusion and would likely

lead to diminished cheese sales for Australian brands. Domestic brands would also be forced to absorb costs associated with the relabelling and repackaging of products, as well as the marketing campaigns needed to highlight a brand change. The flow-on effects of this program would add to the nexus of challenges facing dairy farmers, further hindering their profitability.

### Workforce

The dairy industry is facing a shortage of skilled workers for on-farm work. Attracting new talent is a key objective for the dairy industry as well as ensuring there are adequate programs available for the development of a highly skilled workforce that helps build industry capability. There are a range of programs that need to be developed in this area to support industry in attracting and retaining sufficient workers. NSW Farmers is currently advocating for a joint industry and government program that encourages graduates to enter the dairy industry and take up on-farm careers.

#### **RECOMMENDATION:**

*That the NSW Government invest in programs that support the dairy industry in attracting and retaining workers who have skills necessary for working on a dairy farm.*

### Drought

The prolonged period of drought experienced by NSW dairy farmers in recent years has had a crippling effect on individual farm businesses and the state of the industry in general.

The impact of many of the external influences listed above have been exacerbated, in particular cost of feed as fodder and grain supplies were stretched, access to and cost of water. Many farms also faced increased farm labour costs, as farming operations became more intensive, such as the need to handfeed stock due to lack of pasture as a traditional fodder staple in most NSW dairy operations.

Good rains have been received over many but not all dairy regions of the state leaving many still struggling with drought conditions, and the remainder only beginning to recover from its financial and operating impacts.

The impact of retail pricing, squeezing profitability out of the supply chain and placing downward pressure on farm gate prices has left NSW dairy farms with little to no capital reserves. This in turn reduced their resilience and ability to manage the impacts of the drought, in particular financial implications.

These combined financial impacts of ten years of declined farm gate prices, and more recently the drought, has further hindered their ability to invest in infrastructure and technology to deliver efficiencies to their operations and increase overall profitability. Those businesses affected by maintaining a higher cost of production has led to the mass exodus of dairy farmers from the industry in NSW and nationally.

# Impact of previous policies on the dairy industry

## Deregulation

Deregulation of the NSW dairy industry 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 continue to create 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 improvement 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 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.

## Role of Government

The NSW Government has a key role to play in investing in programs to support and increase resilience of dairy businesses. This investment must be in both up-skilling businesses and individuals, and investing in infrastructure projects to enhance the profitability and productivity of the industry. Government also has a role in reducing the unnecessary regulation to facilitate an environment where businesses can operate effectively.

### Securing a Right to Farm

Existing planning laws do not effectively recognise agricultural production. Given the need for proximity to market and processors, this has a significant impact on the NSW dairy industry.

The current systems approval process for agricultural development is unduly burdensome and duplicative, and allows development in proximity to farms that are incompatible with primary production activities. It creates a threat to NSW dairy farming businesses and families.

Land use conflicts created by inappropriate expansion of peri-urban development into existing farmland are creating social conflicts in regional communities and placing unreasonable limits on lawful agricultural practices. These issues must be addressed through the development of explicit protections for the Right to Farm in regional planning strategies.

NSW Farmers supports a legislated Right to Farm in NSW within a regional planning framework that explicitly recognises the social, economic and environmental value of farming to the NSW community and the wider Australian economy and prioritise productive rural land for agricultural purposes.

#### **RECOMMENDATIONS:**

- *The NSW Government should develop a State Policy that explicitly recognises the Right to Farm, to inform land use planning, infrastructure planning and other regional development and peri-urban activities*
- *The newly appointed NSW Agricultural Commissioner must champion the Right to Farm. This required they have statutory powers to: review the planning frameworks and other laws that affect agricultural land; represent the interests of agriculture within government and be*

- consulted on government policies and programs impacting the sector; and take an active role in educating the public about farming practices and building social license for farming.*
- *Planning laws and statutory policies must ensure a streamlined process for approving agricultural development, as well as adequate and meaningful consideration of key issues that are impacting agricultural production and regional communities. These include: changes that reduce existing land used rights or productivity must be offset to the land owner; impacts on farmers existing water entitlements from peri-urban development and mining; loss of farm land and food security; lack of strategic regional infrastructure planning and access to critical infrastructure; and conflicts with incompatible land uses.*

### Research, Development & Extension

Government must invest in targeted dairy research into NSW farming systems that addresses climate variability and other resources management challenges. This research is required to ensure that the industry has production systems that support productivity farms in the various regions of NSW.

The effective extension of this research will be vital in ensuring uptake and on-farm practice change that will increase the viability and profitability of dairy farms in NSW.

### Infrastructure

Government must continue to provide assistance and incentives for dairy farmers to invest in on-farm infrastructure projects to enhance farm productivity. NSW Farmers advocated for the underpasses program in NSW and acknowledges the Cattle Underpass Scheme that was launched in mid-2018. The scheme recognises the importance of improved farm productivity, increased animal welfare, and better safety for motorists. This scheme should be reopened in 2021 as poor seasonal conditions hindered applications in its initial operation.

### Business Development

Programs such as farm management skills for young farmers and risk-proofing management skills are important to support the growth of the industry. The dairy industry needs to be supported for the future so that young farmers are able to enter and remain profitable into the future. Investment in infrastructure projects ensures that farmers can lower their farm input costs, such as with energy and water usage. As noted previously, dairy farmers have high input costs that restrict investment into the industry and individual businesses. Without investment the industry will stall and efficiencies will be

lost. To help facilitate growth, there needs to be investment in critical support for productivity improvements to ensure that large scale operations do not face significant regulatory burdens.

### **RECOMMENDATION:**

*That the NSW Government enhance investment in business management and skills programs.*

### Transport & Roads

The dairy industry operates in regional and rural NSW, and productivity gains and increased market penetration will require efficient and connected infrastructure to meet current and future demand. There is a need for ongoing strategic investment in transport infrastructure to deliver these gains for the industry. This includes prioritising delivery of existing government commitments such as the Great Western and Princes Highway upgrades, and also realising the future opportunities offered by the Western Sydney Airport agribusiness precinct. Further, delivering on the fixing country roads, rail and timber bridges programs will deliver significant benefits to the industry by better connecting regional hubs. Finally, the recent bushfires, which heavily impacted coastal dairy regions in particular, highlight the need to future-proof against major disaster events and supply chain disruptions.

There also needs to be greater flexibility to ensure efficient on- and off-farm transport so that the industry is not restricted by the ‘first and last milk syndrome’. Regulation around vehicle movements needs to be reviewed to ensure that farmers are supported and not burdened with additional and unnecessary costs or needless restrictions around vehicle use and movement.

### Value adding opportunities

NSW Farmers has identified, as part of our 2019 FOCUS agenda, and more recently our COVID Reform Plan released in September 2020, the need to increase regional capacity to value add food products. This includes in the dairy industry.

By value-adding in regional areas, new jobs are created and the ability to shift from growing food as a commodity toward niche production is enhanced. To support this shift, however, governments must invest in the infrastructure which enables regional communities to thrive – be it road and rail infrastructure through to investments in social infrastructure, tackling rural crime, or ensuring the liveability and attractiveness of our regional centres.

### Education

Dairy is a significant contributor to the NSW economy and a vibrant, sustainable and productive dairy industry sector depends on a knowledgeable and supportive community.

Agribusiness is critically important to the Australian economy but is rarely identified in curriculum areas of STEM, economics, English, geography, civics, and other social sciences. Digital technology and advances across most fields of science are transforming production practices and making agriculture more sustainable and efficient. The trajectory of dairy and agriculture in general as a respected and valued profession is dependent on attitudes to agriculture and agribusiness that are based on science and factual information. This is the natural province of the classroom. There is an important place for agriculture with respect to the disciplines of history, culture, science, political and international affairs, and professional development.

Broad community understanding of the primary industries sector is low. The most recent school student survey by the Australian Council of Educational Research into awareness of primary production showed that 43 per cent did not link science to primary production, and 55 per cent did not link innovation to primary production. However, there is no doubt that teachers in primary and secondary schools consider it important to engage students with food and fibre production.

#### **RECOMMENDATION:**

*That the NSW Government resource education programs about farming systems to enhance community understanding.*

### Mental Health

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.



# Dairy Advocate and Industry Advisory Panel

NSW Farmers welcomed the announcement and appointment of the first NSW Fresh Milk and Dairy Advocate as a critical role for the NSW dairy industry. The role aimed to achieve a conduit between government and farmers, to work with industry to identify the changes needed to create a strong and profitable NSW dairy industry. There are fundamental problems facing the dairy industry, including inequities along the supply chain and the irrational prices for dairy products that the Advocate role can support industry to address.

It remains early in the tenure of the Dairy Advocate and this in turn limits the achievements to date. It takes time for structures to be developed and relationships to be established, such as within government and ministerial offices. NSW Farmers can, however, share the following observations about the role and opportunities for enhanced outcomes for the industry through both the Advocate and the Industry Advisory Panel that has been established.

NSW Farmers believes there is a need to better clarify the role and expectations of the Advocate and Advisory Panel. Industry, including existing advocacy bodies, still have uncertainty as to the structure, resources and defined purpose of the role.

A formal engagement plan would enhance the flow of issues and information, and provide more defined focus as to the needs of industry. Industry has an expectation that the Advocate would report and make recommendation to the NSW Government on legislative reform and programs required to support the NSW dairy industry, but input and communication can be improved.

This engagement plan would also address communication strategies and ensure resources from the department support outreach to industry. This includes reporting of activities and outcomes back to dairy farmers. NSW Farmers would be happy to partner and assist in communications, both in engagement with farmers and communication of outcomes. There is great benefit in this being a collaborative activity, delivering a consistent message to industry. The industry as a whole needs unity to address the significant challenges it faces.

NSW Farmers eagerly anticipates the release of the Dairy Action Plan for NSW for industry consultation in the coming months. It will be essential that there are synergies between this and the recently released Australian Dairy Plan.

We emphasise the need for strong links between the NSW Advocate and the ACCC Dairy Specialist at the Commonwealth level as they undertake their perishable agricultural goods inquiry. Competition and power imbalances in the dairy supply chain, driven by irrational retailer pricing strategies, remain the greatest inhibitor to sustainable farm-gate returns in the NSW dairy industry. It is imperative that actions and recommendations to government to remedy this are at forefront of the Advocate's Dairy Action Plan for NSW.

Finally, once finalised, the Dairy Action Plan should set the strategy for the Advocate and provide a set of deliverables that achievement and success can be measured against. This will increase confidence in the role by dairy farmers and the industry.

### **RECOMMENDATIONS:**

- *Both the NSW Agricultural Commissioner and the Dairy Advocate must have competition reform as a key priority and area of focus.*
- *The Dairy Advocate's NSW Dairy Action Plan must have synergies with the Australian Dairy Plan to ensure the industry is working towards common goals at both a state and national level. This includes a significant focus on farm profitability and competition reform along the supply chain.*
- *Greater definition of the role of the Advocate should be provided and an engagement and communications plan developed to ensure the role can be an effective conduit for industry between policy, advocacy and legislation. NSW Farmers welcomes the opportunity to work collaboratively with the Advocate in delivering such a plan.*

## Mandatory Code of Conduct

NSW Farmers welcomed the introduction of the mandatory Dairy Industry Code (the Code) on 1 January 2020 as an instrument to provide a fairer process for negotiating contractual arrangements between dairy farmers and dairy processors; however, we remain disappointed at the exclusion of the retail sector from the remit of the Code.

With the Code only enacted at the beginning of this year, there has been limited opportunity for the industry to fully review its effectiveness or impact on the sector, in particular prices received at the farm gate for dairy producers in NSW. Despite this, outlined below are some of the impacts acknowledged to date, both positive and negative.

### Inclusion of the retail sector

The greatest weakness in the Code is the exclusion of the retail sector from its remit. There have been welcome developments in the dairy farmer – processor relationship under the Code; however, the greatest impact on profitability of NSW dairy farmers remains the detrimental pricing behaviours of the retail sector.

The introduction of the one dollar per litre milk in 2011 reduced the price of private label milk by 25 per cent overnight, and forced branded milk processors to do the same to remain competitive. Over eight consecutive years this has stripped the profitability out of the NSW dairy industry, which predominantly supplies the fresh milk market. Dairy farmers have been most significantly impacted by this decline in profitability given their position at the end of the supply chain. This has in turn driven a decline in the number of dairy farm NSW and nationally, with many forced to leave the industry.

Retailers have continually ignored pleas from industry for an increase in price given the imbalance of market power and the lack of competition in the retail sector, as has been highlighted in previous sections of this submission. The deficiencies of Commonwealth competition laws have allowed this imbalance of market power to occur, and the omission of the retail sector from the Dairy Code has made it an ineffective instrument to offer farmers the protection they need from the irrational pricing practices of the major supermarkets.

NSW Farmers is therefore calling for significant and broad competition reforms as outlined in a recent submission to the ACCC and summaries below.

The retail sector must be brought under the Dairy Code to ensure both farmers and processors protections within the dairy supply chain. This will be key to ensuring the long-term sustainability of the Australian dairy industry, driving profitability back into all levels of the supply chain.

### Retrospective pricing

One of the greatest impacts of the Code has been removing the prospect of retrospective price step downs in the future. This is a welcome protection for dairy farmers across NSW and nationally, following the devastating impact on farmers in 2016 when processors like Murray Goulburn instigated such a move.

### Transparency in pricing

Under the Code, processors are now required to post their minimum price online by 1 June each year, one month prior to contracting. This development has been largely praised by dairy farmers as it affords them the opportunity to compare prices offered between the various processors.

The deficiency in the current Code is that processors are only required to post their minimum prices online, as was the experience in 2020. Inclusions and exclusions differ from one processor to the next, and given a range of quality parameters such as Bulk Milk Cell Count, fat and protein that impact the final price, it remains difficult for farmers to accurately compare the prices on offer.

As such, NSW Farmers proposes that the terms of the Code be amended to require processors to post their full pricing structure online on 1 June annually, to deliver full transparency and the ability to compare contract price terms between processors accurately.

### Exclusivity

The Code was intended to encourage non-exclusive contracts, allowing farmers to deliver to multiple processors or develop their own products. Unfortunately this outcome has not been delivered with processors offering exclusive and non-exclusive pricing structures, with a significant price penalty for entering into a non-exclusive supply contract.

### Certainty in pricing

The introduction of longer term supply contracts and the timing of the minimum price release one month ahead of contracting have both been positive for NSW dairy farmers. The practical impact of this

pricing certainty is the farmer's ability to plan and budget operations in advance, providing stability and certainty to their farm business for the season ahead.

There continues to be a reluctance to pay premiums for milk products when prevailing seasonal conditions such as drought drive up the cost of production. During these times the cost of inputs such as feed and water increase exponentially, negatively impacting profitability. The Code should be amended to reflect the need for this increase cost to be recognised in producer contracts. Provisions must be made standard for price negotiations to support this increased cost of production during these periods.

The retail drought levy applied to private label milk by the major supermarkets has delivered limited impact to farm gate prices, with only some producers receiving any price benefit and of those who do, only a small margin of the retail levy amount. Further, it continues to ignore the longer term devaluation of milk and dairy products that have driven down farm gate prices and stripped the profitability out of NSW dairy farming.

### Supply contracts with processors

The Code has delivered a positive impact on industry by highlighting the importance of contracts between producers and processors. Further, it has provided dairy farmers more certainty with the availability of longer term contracts.

The introduction of the Code has not seen processors deliver more simplified supply contracts across the board. Despite industry's best efforts to develop standardised and simplified contracts templates, many processors have failed to adopt these, leading to unnecessary confusion for farmers trying to interpret the supply contract terms, and making comparison between processor contracts more difficult. This was one issue industry called for the Code to address and further enforcement of this is required.

Finally, an unintended consequence of every dairy farmers being locked into a supply contract is that it allows less flexibility to move to another processor mid-season should the opportunity for better pricing and conditions become available.

### Competition reforms

As briefly highlighted above, NSW Farmers called for broad reform to Australian competition policy in a recent submission to the ACCC perishable agricultural goods inquiry. This includes National Competition Policy where the NSW Government has collective input along with the Commonwealth and other

jurisdictions. Dairy farmers are at a distinct disadvantage with the large retailers and processors holding significant bargaining power in contract negotiations.

For this reason NSW Farmers are calling for;

- stronger unconscionable conduct provisions in Australian Consumer Law
- strengthening Unfair Contract Term protection for small business
- forced divestiture of the supermarket duopoly
- adjustments to the National Competition Policy to recognise the principle of fairness
- fair dealing provisions to address the delay in settling invoices
- resourcing for compliance and enforcement by the ACCC
- cost effective dispute resolution and access to justice
- collective bargaining powers; and
- enhancements to the Mandatory Dairy Code of Conduct and the inclusions of retailers.