

**REPORT ON PROCEEDINGS BEFORE**

**PORTFOLIO COMMITTEE NO. 4 - INDUSTRY  
LONG-TERM SUSTAINABILITY OF THE DAIRY INDUSTRY IN  
NEW SOUTH WALES**

<b>CORRECTED</b>
------------------

**At Macquarie Room, Parliament House, Sydney, on Wednesday 3 February 2021**

**The Committee met at 9:30.**

**PRESENT**

The Hon. Mark Banasiak (Chair)

The Hon. Wes Fang

The Hon. Emma Hurst (Deputy Chair)

The Hon. Peter Primrose

The Hon. Mick Veitch

**PRESENT VIA VIDEOCONFERENCE**

The Hon. Lou Amato

The Hon. Catherine Cusack



**The CHAIR:** Welcome to the second hearing of the Portfolio Committee No. 4 - Industry inquiry into the long-term sustainability of the dairy industry in New South Wales. Before I commence, I acknowledge the Gadigal people, who are the traditional custodians of this land. I also pay my respect to the Elders past, present and emerging of the Eora nation, and extend that respect to other Aboriginal people present. Today we will be hearing from a number of key stakeholders, including representatives from the Department of Primary Industries, the NSW Fresh Milk and Dairy Advocate, a member of the NSW Dairy Industry Advisory Panel and representatives from the Australian Competition and Consumer Commission. While we have most witnesses with us in person, some will be appearing via videoconference today. I thank everyone for making the time to give evidence to this inquiry.

Before we commence I will make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. Therefore, I urge witnesses to be careful about comments they may make to the media or to others after they complete their evidence.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. These rules have been provided to witnesses and are available from the secretariat. If witnesses are unable to answer a question today and want more time to respond they can take a question on notice. Written answers to questions taken on notice are to be provided within 21 days. If a witness wishes to hand up documents they should do so through the Committee staff. In terms of the audibility of the hearing today, I remind both Committee members and witnesses to speak into the microphones. As we have a number of witnesses in person and via videoconference, it may be helpful to identify who questions are directed to and who is speaking. For those with hearing difficulties who are present in the room today, please note that the room is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. I now welcome our first witnesses.

**ALEXANDER RUSSELL**, Director Intensive Livestock, NSW Department of Primary Industries, before the Committee via videoconference, sworn and examined

**IAN ZANDSTRA**, NSW Fresh Milk and Dairy Advocate, sworn and examined

**SERGIO (YANI) GARCIA**, Professor of Dairy Science, member of the NSW Dairy Industry Advisory Panel, University of Sydney and Director Dairy Research Foundation, affirmed and examined

**KATE LORIMER-WARD**, Deputy Director General Agriculture, NSW Department of Primary Industries, affirmed and examined

**SCOTT HANSEN**, Director General, NSW Department of Primary Industries, sworn and examined

**The CHAIR:** Would any of you like to make a short opening statement?

**Mr HANSEN:** Thank you, Chair. The Committee has our submission to the inquiry. In the interests of getting as much ground covered as we can this morning, we might just jump straight into questions.

**The Hon. MICK VEITCH:** I am happy to take up that offer, as you can imagine. I have a series of questions for a number of the panel members, but I want to start off focusing a bit on the Australian Competition and Consumer Commission [ACCC] review. Mr Hansen, has that review provided any assistance in identifying gaps in service delivery to the dairy industry in New South Wales? Has the department drawn any information that they did not already have?

**Mr HANSEN:** I might throw to Mr Zandstra in a moment in terms of what information and outcomes from that ACCC review has been of use in constructing the dairy action plan and some of the pieces in amongst that, particularly around that forward confidence piece for the industry. I am conscious that you have the ACCC on this afternoon in terms of some of their findings and where they are up to in their current review. But Mr Zandstra might like to make some comments.

**Mr ZANDSTRA:** The review was about two years ago and it was very comprehensive; it was a tremendous overview of the dairy industry. I think the main focus of the review was the mandatory code, or the need for a mandatory code. I cannot recall any specific passages that actually referred to service or lack of service to the industry in New South Wales.

**The Hon. MICK VEITCH:** Mr Zandstra, prior to the last election the then Minister for Primary Industries, Niall Blair, committed to forming a crisis task force for dairy. I want to know: Did that happen, has that happened or is it in the process of happening?

**Mr ZANDSTRA:** I am not too familiar with Niall Blair's comments but I know from that it led to the thought of a dairy advocate and the results of the lobbying by industry and especially by advocacy groups. I could assume that if there was a crisis review committee, it might have evolved into the advocate's role and the forming of the Dairy Industry Advisory Panel to develop the dairy plan, at least to discuss the nature of the state of the New South Wales dairy industry. As far as a crisis committee, I do not think anything such as that was called was formed.

**Mr HANSEN:** I will to add Mr Zandstra's comments that the Dairy Industry Advisory Panel was the evolution of those original discussions around some form of committee to look at the crisis that was presenting in the dairy industry at the time. It started in 2019, met monthly for a period of time under the stewardship and oversight of Mr Zandstra. They were the key authors and contributors to the dairy industry action plan, which has been formed up in consultation with industry, it has been out for consultation with industry and frames up the forward set of actions.

**The Hon. MICK VEITCH:** Mr Hansen, since last time this Committee conducted its inquiry into the dairy industry, that inquiry recommended that this one be set up and established. There were also a number of issues raised. Have you had a chance to look at submissions to this inquiry? Are you confident that the dairy industry has moved from where it was when the first public inquiry into dairy a couple of years ago took place? Has there been positive movement?

**Mr HANSEN:** I think it is worth reflecting on what some of the differences between 2018 and now are. Probably the most significant—and if you remember back in 2018 we were talking about where the industry found itself at that point in time, you will recall that we talked about all the data we had from our Dairy Farm Monitor Project, as well as feed from the industry was a rapidly escalating input cost to their business that was having an impact on profitability. Obviously, from 2018 things only got worse and in 2019. Over the course of 2020 we started to see things turn in terms of seasonal conditions changing and change in some of those input costs—feed being the single biggest input cost that they were having to wear. So when we think about some of the major

changes between then and now, we have seen seasonal conditions improve, which, in response to that we have seen production start to improve, and we have seen the value of livestock significantly improve.

At the same time, over that period since 2018—because when we were talking then there was discussion around the potential for a code of conduct for the industry in terms of its dealing with retailers, which is now a mandatory code of conduct that has been put in place by the Federal Government. I might ask Mr Zandstra if he wants to reflect on the consultations he has had with the industry over the past couple of months. There is a confidence that was not there in 2018. That confidence has driven both on what they are seeing in terms of current prices and, I dare say, seasonal conditions are even better now than what they were when this Committee last met and held public hearings before the Christmas break and shutdown. We have seen a continuation of those good seasonal prices, some of the highest prices for milk on record being paid and an increase in the production volumes. That is all painting a much more positive picture than what we saw in 2018, in 2019 and what you would even have seen in some of the submissions early on into this inquiry. I might see if Mr Zandstra or Ms Lorimer-Ward want to add anything further.

**Mr ZANDSTRA:** It was very interesting times because up to about 2015-16 the milk volumes in New South Wales increased. We had done pretty well as a State because the big shock point—I suppose test point—was deregulation when the world changed and prices crashed. Up until about 2015-16 I think half the number of farmers produced nearly the same amount of milk. We never crashed post-deregulation; a lot of farmers had a really good go. As I have said, over time half of them left. It was a test for farmers and their productivity and efficiency and their willingness to stay in the industry.

So the milk volumes built up again and then of course the drought was a shock, and it is the sort of shock you cannot plan for; it was so severe—that cost shock. Deregulation was a price shock; the drought was a cost shock and I do not think farmers can really have thought they could set themselves up for that in terms of conserving feed. Homegrown feed was quickly used up—the lack of feed growing upon farms and the cost and the difficulty of getting purchased feed. For grains it was cost, but for fodder it was just hard to get and very difficult and of course it is quite expensive to move fodder, which has less metabolisable energy and protein as grain but much needed for a cow's diet. It was hard to get that and pay those sort of prices. Clearly grain is always fed but the fodder prices was absolutely uneconomic.

So the signs were all really there in early days in 2017 because most of the stocks had gone to Queensland, so it was hard to get. Then, of course, it got worse eastern Australia-wide and prices went up and it was hard to get, and farmers were de-scaling and wondered what their future would be. So we got through that. The figures of the impact of that turned up in how the industry is analysed, and that is the dairy farm business monitoring program. Profits had been fairly stable in New South Wales but we can see from that program they are cyclical; they move up and down with the milk price or the seasons.

We had some very tough years of performance for those two or three years. We are bouncing back now very much so in terms of farming. Prices have picked up, homegrown feed is available, we are getting good seasons and fodder is readily available and grain has not come back a lot yet, but the terms of trade in that sense are very favourable and farmers are positive. So it is a good sign. Too much of a test one might say; farmers did leave. We cannot expect things to be perfectly stable in any business all the time but the farmers have got through it and the mood is very positive.

**The Hon. MICK VEITCH:** You both paint a very positive picture, and if it is so positive, can you explain to me why three processors have not increased their farmgate price since initiating their opening price and contracts in July 2020?

**Mr ZANDSTRA:** I was a director of Dairy Farmers, which is no longer, and I was chair of the Dairy Farmers Milk Co-operative, which came from the restructure of Dairy Farmers into a corporate model and the farmers. I negotiated and really managed the milk pool, which was at one stage at 1.14 billion litres, with dairy farmers and Lion, so I have got a fairly good insight into how it is all made and works and sometimes does not work. As far as the opening prices and no increase for New South Wales, we would always like more as farmers and from my position we have to be as rational and as understanding commercially as we can.

The prices are very, very strong. They are world-leading actually, which is a great thing because we are in an area where the milk pool has declined; where milk is needed; where there is a very strong market for white milk; and a very strong market in Queensland for our milk which the Queenslanders cannot meet. I think the levers that determine milk price are working fairly well and we have certainly had probably a 10 to 15 per cent increase over these last of the drought years. You can say that is market-driven; the milk was not available if they needed it. The value of milk is really what it cost you to have where you would need it—factory door costs. The best equation was to pay more rather than expect to get more from Victoria. The prices are strong and I could

always argue that we need more but I think we are very fortunate that at this testing time in the industry a price increase has come along.

**The Hon. MICK VEITCH:** It would be fair to say, Mr Zandstra, that a number of members of the panel would be receiving information from dairy farmers asking why the prices have not gone up as well. There are dairy farmers that are clearly wanting a reflection in their productivity in the price they receive at the farm gate. It is fair to say, though, there are currently three processors that have not increased their prices since opening price in July 2020 on the contracts.

**Mr ZANDSTRA:** Well, I cannot answer that. I am not a lobbyist. I have to have a good understanding of the industry and the whole dynamics of the supply chain and I cannot say ill of anyone who would lobby and argue that we need more.

**The Hon. MICK VEITCH:** Can I ask questions about the mandatory code of conduct which has been raised?

**Mr HANSEN:** Just on those prices, out of the farm monitoring project that we have, which collects data from a number of dairy farmers across the State, that end of financial year 2020 pricing—the records collected from those farms, the farms from the northern region of New South Wales saw a 16.7 per cent increase in farmgate price and in southern New South Wales saw a 14.1 per cent increase in farmgate price. Obviously the question you are asking is about that price movement since the start of this financial year, but off the back of significant price rises, as Mr Zandstra has outlined, in the two previous financial years as that demand bit into availability of supply.

**The Hon. MICK VEITCH:** Okay. I think the mandatory code of conduct required the processors to publish their milk supply agreements on their websites, essentially to specify a minimum price. Has that occurred in New South Wales?

**Mr ZANDSTRA:** I think it has because of the strong need for compliance to the code; it is a statutory commitment, one might say. But the ACCC—and I am on an ACCC panel—has got a record of about 100 episodes of noncompliance and I do not think there would be any deliberate attempt by a processor in this scenario of much watch and much need for compliance to be overtly non-compliant and harmful for their suppliers. But seemingly there are episodes of failure to publish the code on 2 June at 2.00 p.m. or something—1 June. Things like that. If you talk to the ACCC there might be a few strong episodes of just not wanting to do the right thing or not doing it blatantly, but generally I think it has been adhered to. It was a big ask to have such a change of what you might call operating terms to actual legal ways to operate; you must do it correctly. I think it was a big ask for the processors to get that together but I think they certainly did overall.

You talked about whether there has been no increase in pricing and whether they published their minimum price; that proved to be quite a test for the processors as well. I think farmers had an expectation that any farmer could look into the offer arrangements and see what he as an individual farmer would get as his minimum milk price. That is nearly too much to ask because there are 5,200 farmers in Australia and they all supply of a different nature—no two farmers get the same. But in the contracts themselves there is a model of what we pay for a certain type of milk and that is what we will pay you over the year, and I think that arrangement is being met which is the commitment of "Our business will pay a farmer this based on what he sells and where he is and other such parameters." There is no minimum price; there is no floor price or there is no minimum price for the industry. There is a minimum price that a processor will commit to pay a farmer over the year.

**Mr HANSEN:** So, two things. First of all, obviously you have got the enforcement agency for compliance—for that mandatory code—here straight after us. What we do endeavour to do, however, is provide a link on our website to all of those publicly available contracts that are required—and I think Dairy Australia do the same—to try to increase that transparency in terms of where people can find them. We certainly try to make sure that there is access for farmers to that information now that that transparency is there. In terms of compliance with that code, that is a question for ACCC this afternoon obviously. Also, you would be aware that they have just finished their review into perishable food products that did look at whether the code was working towards achieving the outcomes that it was intended to do, the problems that they set it up to try to fix. Again, they are best placed to talk about it, but the takeout summary was that they found that it was starting to make the adjustments, make the changes and it was being implemented in the way in which they had hoped it would be to actually deliver the transparency and the rebalancing of equity in that supply chain.

**The Hon. MICK VEITCH:** Mr Zandstra, how long have you been in the role now?

**Mr ZANDSTRA:** I was appointed in September 2019.

**The Hon. MICK VEITCH:** Last year got away on me for some reason.

**Mr ZANDSTRA:** Me too.

**The Hon. MICK VEITCH:** You have been in the role now over 12 months.

**Mr ZANDSTRA:** Yes.

**The Hon. MICK VEITCH:** You have had a chance now in the way it has been restructured, are there enhancements you would be seeking in your role? If you were to be given the capacity to refine what the role is now, having been in it for more than 12 months, what would that be?

**Mr ZANDSTRA:** Firstly, I think I have met the mandate, I have met what was required in my role description. I think going forward it is an appointment for two years. A structure such as this should go on for longer. It is a great help to get a group of industry stakeholders with no political intent whatsoever, there is no lobbying and that sort of stuff going on. It has been put together to talk about industry and fortunately with ourselves we had the framework, I obviously talk about the preparation of the plan. The dairy plan is in draft form and is being finalised.

I think going forward we need a group such as this to meet and talk about the industry with parliamentarians and the Department of Primary Industries [DPI] and anyone, quite frankly, but most certainly to overview and have some oversight of the implementation of the plan. That is where I think it could change. Other than that, I get paid for the role. The other people get their reimbursements for expenses and it is great that they do and I think we are very fortunate—we say we are fortunate from COVID, but the online virtual meetings have been tremendous and well attended. In that sense I think it is working quite well. In my point of view it is not for me to say how such an entity should be structured by the parties who have designed it.

**The Hon. MICK VEITCH:** I do not want to do that. I have been around long enough to know that there are certain things that you can and cannot respond to, and certain things I can and cannot ask about. You mentioned a role statement. Is it possible to get a copy of that for the Committee?

**Mr ZANDSTRA:** Yes, I am sure that would be possible.

**The Hon. MICK VEITCH:** There are some in the industry now saying that the Dairy Advocate position should be independent of government. I think the main thrust of that rationale is that the advice you provide should be frank and honest. That is where people are coming from when they say it should be independent from government. That is my take on it, not what they are telling me. In that evaluation of your role have times arisen where you think it would be good to have that independence around the role?

**Mr ZANDSTRA:** I think I am very independent by nature. I think an advocate's role in any arena should be to be honest, of course, and to be credible, and they seem like the same thing but they are not. You can be honest about the decline of farmer numbers in New South Wales over the last 30 years and make a big issue of it, a big issue, everything has gone chaotic and why things have not been right, the landscape has not been right, but the credible situation is that is a historic trend right around the world. We are no different in our trends than any State in Australia, except Tasmania, which is a temperate climate and growing, and Queensland, which has decreased more.

I think the point is to be honest and credible and not play politics, and where I have, at times I have got into a bit of strife with the other advocacy party, and I do not really want my role to be a public little skirmish as well. It is not my role to be there, it is my role to explain the industry, use my understanding to meet with the panel and to meet with the Minister at times. So, no, I do not think I have been hindered in any way and I have learned from my dairy farmer's days there is one thing you do not try to do and that is get on the headlines of the newspapers, it does not get you anywhere. Yes, low key, practical, keep on the job and deliver the results, hopefully.

**The Hon. MICK VEITCH:** Another reason why I asked the question, as Mr Hansen would probably recall, one of the recommendations from the previous inquiry this Committee conducted into the dairy industry was around an independent advocate. I am tying the two together there, that there are people in the industry asking for it and this Committee recommended that it should be an independent role based on the evidence that we received the last time we met.

**Mr ZANDSTRA:** I did read that and I think I am fairly independent. The alternative is a further structure than just the word independence, and that is a statutory body most strongly funded with certain powers to call processors in the room and name and shame, and all those things. That is just not on. The ACCC is like that. They have got a very dedicated role in competition and consumer interests, one might say, but a statutory funding of industry for us. No, I am not one for that. I think that belongs to the parliamentarians, quite frankly, absolutely.

**Mr HANSEN:** Just further to that, the term independent was really interpreted as meaning it could not be an employee of the department, which would have been a natural go to in terms of creation of an advocate in the industry. Bear in mind the fact that any survey of our stakeholders that gets done points to the single thing that they value most out of the New South Wales Department of Primary Industry is the independence and credibility of the information it provides them. Quite often they are making multimillion-dollar investment and operational decisions based off our scientific advice and information, so that independence is paramount to us.

The fact that Mr Zandstra is not an employee of the Government, is a contractor, is independent of the public service and has a 37-year track record in the dairy industry, those who know him and have been involved in any of the meetings or forums know he takes a very independent view in terms of bringing his experience in industry to the discussions and helping stakeholders out. In terms of your questions about the future pieces, you would have seen one of the recommendations that is actually in the draft Dairy Industry Action Plan is about what do you set up as an ongoing framework to monitor and report six monthly on implementation of the plan's actions, again for that transparency and that independence of that reporting back to the industry.

**The Hon. EMMA HURST:** I have a few questions that maybe Mr Hansen and Mr Russell might be best placed to answer. In the Government submission you note that the dairy industry is becoming more large scale and intensified, can you talk a little bit more about this trend moving to more intensive forms of agribusiness?

**Mr HANSEN:** I might start and then look to hand to Mr Russell. Certainly, as Mr Zandstra has already outlined, the steady decline in the number of dairy farmers across the country has been a long-term trend now for well over a decade. There has been a corresponding increase in the herd sizes of the dairy farms. So the dairy farm numbers are getting smaller, their herd sizes are increasing and the amount of milk being produced in total has been relatively stable, if you take out the bumps and shocks of drought years, at just over a billion litres. At the same time, that is not saying that we are seeing a complete walk away from the smaller, niche, boutique dairy farm that provides targeted products to targeted markets, but the long-term trend is certainly that, as across most of agriculture, economies of size and scale are important. We are seeing a smaller number of farmers with more cows and bigger operations; so more land producing the same volume of milk as what those higher number of farmers were producing previously. I might see if Mr Russell wants to add anything else to that.

**Mr RUSSELL:** Yes, thank you, Mr Hansen. I think what we are seeing is that family-operated farmers in New South Wales are growing in size and they are seeking to do that to maintain their profit position and achieve the goals and aspirations that they have for their business. Increasingly they are looking to intensify their pasture production systems and invest in new systems to both manage those larger herds and also to manage the seasonal risks that they face in their businesses, whether that be about seasonal variation in a rain-fed system or whether in an irrigated system they have access to irrigation water. The intensification we are seeing is in the management of those herds to accommodate the increasing size but also the risks that they see in their businesses.

**Mr HANSEN:** I might just add to that. When we talk about intensification, when we look back at the farms that we monitored under the Dairy Farm Monitor Project, since 2013 the average number of milking cows per farm has gone from 309 up to 384 at the end of 2020. That is an increase in cow numbers, but the actual cows per hectare has actually stayed stable at 1.2. It is actually an increasing farm size and an increasing herd going hand in hand.

**The Hon. EMMA HURST:** My follow-up question links a little bit to what you are saying about the actual hectare change not making much of a difference, but also to the comments around management of herds. When we heard from Dairy NSW and Dairy Australia, we talked about their sustainability report. They said that the dairy industry sees animal welfare as an important aspect of sustainability. Has this intensification and the increased management that is needed for these increased herds affected animal welfare?

**Mr HANSEN:** The short answer is yes, because it has increased their ability at scale and with size to actually put in place the systems and the processes to continue to monitor and continue to improve animal welfare outcomes. Actually that is an industry issue that Mr Zandstra has heard as he has gone around in his consultations with industry. I will see if anyone else wants to comment in any more detail.

**Mr ZANDSTRA:** Obviously animal welfare is always an issue to a person who loves cows, handles cows and depends on livestock. I am a migrant. I was born overseas. Both of my grandparents had small dairy farms of about eight and 11 cows. They lived for their livestock. I did a little survey as part of this process as to what makes dairy farmers dairy farmers. I have had several share farmers et cetera who love their livestock. They love cows. They know they have to look after their animals. But the issue you raise is an important one because there is more public awareness of animal welfare in the community. There is a sense of historic—and I would not argue against it—of things being not as they should be, and that is fairly true of the bobby calf issue you raise. I think that is being addressed as good as it can be in the utilisation of sexed embryos on our farm where more heifer calves are born. On our farm we use beef bulls over our heifers and a lot of our dairy herd to ensure the

marketability of our calves. So it is a live issue. It is an issue in which the industry wants to be seen in a favourable light. I am still pleased it has been brought up, because the better we look into accommodating this, the better it is for our overall image. If that is part of sustainability, looking after cows is a big factor in the sustainability of the dairy business. I think it is a live issue, it is a historic issue and, as David Nation and Co. imply, it is one that our eyes are on as much as the public.

**The Hon. EMMA HURST:** We also heard that the industry has committed to phase out tail docking, to phase out routine calving induction and also to set targets for use of pain relief when debudding the animals as well. Would the Government consider amending the Prevention of Cruelty to Animals Act or is that being considered as part of the POCTAA review to support the industry in achieving these welfare goals by making it an offence under the Act, for example?

**Mr HANSEN:** Actually we are currently in the process of reviewing the Prevention of Cruelty to Animals Act. Details such as pain relief for debudding would be covered in some of the codes that would form part of the framework that would sit under POCTAA and under the regulations. Dairy Australia has already developed a series of animal welfare codes and requirements that it believes are minimum standards required for the dairy industry. A number of the supply chains actually go over and above that and set their own requirements in terms of animal welfare standards in their supply chains. Again I cannot pre-empt where the reform discussion around animal welfare rules in New South Wales lands and at what point does it stop and industry and commercial initiatives go over and above, but it is certainly something that the industry is taking seriously. If the industry is taking it seriously, then we know customers and the community are taking it seriously. That is always a good precedent.

**The Hon. EMMA HURST:** Sorry, but is it being considered as part of this POCTAA process? Is it on the table for consideration or are you not aware of that yet?

**Mr HANSEN:** No. At the moment we are still at that stage of talking about what does prevention of mean, what does the overlying legislation need to look like, hence the discussion papers and the discussions we have been having with industry. We are not at that stage of having the detailed discussions around individual practices.

**Dr GARCIA:** If I can add to what Mr Hansen is saying, I think in the new R&D program that we are putting forward, which has been funded and which we are about to start, animal welfare is our absolute priority. All of the targets that you mentioned, we should absolutely pull through them. For example, with debudding about 80 per cent of farmers actually using it. As a minimum we should not accept anything less than 100 per cent, to be honest. I think the industry is going towards that target. In particular, in this program that we are launching there are several components that directly address animal welfare, animal wellbeing and looks at the potential of cows by having healthy cows living longer, producing more and living happier lives. Specifically one of the sub-projects is looking into the different ways of slow-release painkillers for calves. At the University of Sydney my group is working on that specifically for beef at the moment. We are planning to extend it to dairy. There are very encouraging results that would make it a lot easier for all farmers to adopt that sort of technology and therefore ensure that no calf is debudded without full, long-term pain relief.

**The Hon. EMMA HURST:** Dr Garcia, do you believe that the dairy industry would be supportive of Government legislation around this if that is the way the industry is going anyway?

**Dr GARCIA:** Perhaps I am not in the best position to answer that but I think it is actually something that we should really come together around as an industry. Again, as I said before, 90 per cent is not good enough on that sort of thing for me. There are tools that we can collectively work towards. Farmers, as Mr Zandstra pointed out, they really love their animals. Before you asked about intensification. Intensive farming is only 10 per cent in the State. But they rely on cow comfort as a pivotal aspect of farm production. I mean, a cow that is not healthy and living well will not produce—and they love their animals. All of the bases are there. We need to put the structures together and the R&D to find the solutions. If some people are not doing it, why? Why is it? Is it a lack of technology? Is it a lack of knowledge? I really believe that it can be done, for sure.

**The Hon. EMMA HURST:** Just going back to Mr Hansen, we have heard a lot of evidence in the inquiry about dairy workers that are struggling. One of our witnesses that we have heard from described how workers feel quite trapped in the industry and might suffer from mental health issues as a result. Is the Department of Primary Industries concerned about the mental health of those working in the dairy industry? Is that something that has come onto your table?

**Mr HANSEN:** I might get Ms Lorimer-Ward to add something to this after. The mental health of all farm workers has been a significant issue, particularly over the last couple of years. I am not aware of the context in which it was being raised in evidence here, but there have been very targeted and very deliberate attempts—

not only by ourselves but by the department of Health—in terms of ensuring that there are targeted resources, campaigns and encouragement for farm workers, farm owners and regional communities that revolve around those industries over the past number of years of really trying times, both environmentally and from business profit and business sustainability. Dairy farm workers are caught up in that, obviously.

As Mr Zandstra has outlined, when natural feed production in the paddocks stops and you are having to buy it to supplement your grain purchases for your dairy farms—we have seen what that does to the profitability in the dairy industry. We have seen what that can do to the optimism and hope that an industry can have when they are facing nothing but ongoing drought. That has been a significant concern across all of our sectors, none more so or less so than the dairy industry. The dairy industry, by the nature of its geographical location, has also been dealing with the impact of bushfires and the aftermath of bushfires, and so has had added constraints, problems and pressures brought to bear on it. Obviously, the mental health impacts of those are concerning to all. As I said, we have had activities that we have been conducting, but they have largely been gateway activities to make sure they get the appropriate health care access that they need. I might get Ms Lorimer-Ward to elaborate some more.

**Ms LORIMER-WARD:** Thanks, Mr Hansen. We did definitely see an increase, particularly during the drought with those external pressures. Some initiatives that we have run deliberately as an agency have been through the Rural Resilience Program, where we put people into those communities to work specifically with industries and individuals, and also facilitate them accessing programs like the Rural Adversity Mental Health Program run through Health. One of the advantages that we do find with the dairy industry is that it is actually very well self-organised at that regional and district level, so you can actually bring them together quite effectively to try and put programs in touch with them.

I think the other aspect that we have really been working with, particularly with the industry, is that—quite separately, they have been running programs around how to improve your human resources [HR] practices as an owner and how to support workers better. They have deliberately had programs about how to be a better business manager and how to manage people within your business. They are quite leading, in a way—the dairy industry—about how they have been doing that. Hopefully those programs over time will start to see those impacts about worker welfare.

**The Hon. EMMA HURST:** We also had a witness from the New Zealand dairy industry who argued that the Government should be considering providing support to dairy farmers to transition out of the industry if they wanted to actually transition out. She suggested more profitable and sustainable industries over the long term, including plant-based agriculture. Is that something that has been considered within the Department of Primary Industries—some kind of an exit scheme or a support network for any individuals wanting to exit the industry?

**Mr HANSEN:** Not probably in the sense that was recommended or discussed with you by the evidence that you had presented. What we do on a more routine basis, however, is that because there are farmers that, on a daily basis, are determining what their farming enterprise is, what their farming business will be and what the utilisation of their assets will be going forward—obviously for dairy farmers those assets involve quite a bit of infrastructure that is not as readily translatable into other commodities or other products. At the same time, they often have significant underlying asset value in their properties, and that asset appreciation has been something that has been continuing over a significant period of time now.

What we do is make sure that there is advice and programs available for people to actually look at the business cases for change and to work out how they would approach a bank or a financier about what would be required for capital to make changes if they are to change their business operations. That kind of assistance and advice is available. But, in terms of targeted exit campaigns, there has not been. I am not sure whether it has come up in any of the conversations that you have had, Mr Zandstra, as you have gone around.

**Mr ZANDSTRA:** No, it has not, Mr Hansen. I think, say, 20 or 30 years ago there was such a scheme for people who found difficulty in, maybe, agriculture—I was aware of dairying—to have a modest amount of funding to leave. No, it has not come up at meetings. I think Mr Hansen makes a good point—it probably was not his point but I feel—that many dairy farmers who leave have felt it is time to cease working so hard. They have worked hard all their life. We have got this generational issue, especially if there is no next generation who wants to come along. That is perfectly natural. We cannot really blame a farmer for stopping dairying if he feels his time is up. We simply cannot.

We are fortunate—and it occurred with deregulation—that most farms are located in fairly highly valued land areas. It would not have been much fun being from Nyngan or Wilcannia and saying, "I want to stop but nobody wants my land." So, that is a great equity backing for dairy farmers, fortunately, and they are free to use that as they wish. They might want to stay on the land. As a strong New Zealand survey showed, when these farmers cease farming, they have paid their farm off and they do not really want to get bigger and employ people.

So they choose to end their dairying life where they have always been: on their farm. I think that is a very fortunate position. But it could well be—and Mr Hansen talks of the support for farmers who want to change their business operations and want an understanding of where to go—that there are structures in place to help them with that advice.

**Mr HANSEN:** That just prompted me to say one of the things we have been doing. A focus of our Young Farmer Business Program is actually working with young farmers wanting to buy into the dairy industry, which is a capital-intensive industry to buy into. It has actually been coaching and working with them. So, over the past three years we have had workshops that have been specifically requested by young farmers in key dairying areas of Dorriggo, Taree, Kempsey and Kyogle, all interested in, "How do I put together the business plan to be able to take a bank, to be able to enter this industry?" Because they want to get in. At the same time, as Mr Zandstra has outlined, we have dairy farmers who are looking to exit, which is something that we talk about quite a bit.

We have seen in a number of our extensive pastoral areas in the State—if there is the ability to move from livestock to cropping, there are certain lifestyle advantages with cropping, with regards to the predictability of seasonality and labour force requirements in terms of the type of operations. And so, we have seen a transition from livestock to plants in a number of parts of the State. Risk mitigation means that there is normally a balance that is tried to be kept between those two. But, in terms of assistance, we are providing probably an equal amount of assistance to young farmers wanting to get into the dairy industry as we are providing guidance and advice to those farmers who are looking to exit, in terms of what they have to be thinking about in terms of business planning.

**The Hon. EMMA HURST:** I have one more question. We also had a witness that was talking about the power of regenerative farming and how this could be an avenue for dairy farmers to repurpose their land. I recognise that you have mentioned that they are on good land as it is, currently, in New South Wales. Is this something that the Department of Primary Industries has a position on, or is it something that has been considered?

**Mr HANSEN:** I might ask Ms Lorimer-Ward to start.

**Ms LORIMER-WARD:** We would not actually see dairying and regenerative agriculture as necessarily separate and "or". You can actually achieve both. A number of practices that dairy operators would have in place actually can contribute to regenerative outcomes, such as the rotational grazing or the management of inputs. We would not actually see those things as not being complimentary and "or". We do a lot of work at the moment in our R&D portfolio around those regenerative agriculture principles and how you achieve those.

**The Hon. EMMA HURST:** As part of that regenerative farming, does that also incorporate, for example—you talked about rotational growing. Does that also involve other forms of agriculture on the same land?

**Ms LORIMER-WARD:** Yes, it can. We often look at that in terms of different aspects around diversity of businesses but also how people bring that resilience into their enterprise. Now, they could achieve that through either bringing other enterprises into their operation but also how they bring diverse species into their pastures—all those sorts of parts of regenerative agriculture. They are not excluding.

**The Hon. WES FANG:** I wanted to turn the questioning more towards the future of the dairy industry in New South Wales. I wanted to ask what you see as some of the challenges moving forward but also some of the industry initiatives that may be being looked at through R&D with the department. Where do you see possible advances and the industry going into the future?

**Mr HANSEN:** Thank you for the question. It plays very nicely to Mr Zandstra and Professor Garcia in terms of the work that they have done around the construct of a dairy industry action plan and what the future for the dairy industry might be and some of the key recommendations out of there, including the first of those key recommendations, which is actually an RD&A, a research, development and adoption strategy. I might hand over to Mr Zandstra to start off and then see if Professor Garcia wants to add. Then, depending on where you want to go after that, we could also talk about the current R&D suite of projects that we have on the table at the moment, but I might let Mr Zandstra talk about the future that he has outlined in the dairy industry action plan.

**Mr ZANDSTRA:** Yes, it is a broad question. As to the future of the industry, we know—I will start in a different place. We know we are in the food industry for a start. So there is a market there—a strong market for dairy products and food generally. We know we are in a State with a growing population. We know we are an industry that does not meet State needs and that there is milk imported into New South Wales and a lot of that goes through New South Wales to Queensland, which are two quite large strong growing populations. So the dairy market is there for dairy farmers. It is there for the State's dairy farmers. You could translate and say that the income is there for people and the revenue is there for the State and the revenue is there for regional communities and for the State overall. That is a strong position to be in, quite frankly. Overall, Australia as well, in the dairy

industry and in the food industry—there are the populations around the world that need more food and high protein food. Now that is a very favourable position to be in.

We would wonder why the industry has declined as it has with that. I will say broadly it is the market. The international market is very competitive. The competitive exporters are growing their exports, especially the US and Europe, well-developed western countries. They are growing. South Africa is fairly strong. New Zealand is very strong. Obviously our farmers have not been able to meet the cost point with export competition and there is a generational decline. We could say there is the economic position that we are not meeting that and certainly every State has declined. The big test is for farmers to meet the market. That can be done with producing milk at what the market pays for it. In terms of trade it would be to improve productivity and efficiency. I think plenty of farmers are in that position. All the dairy farm business monitoring shows that there is a top 25 and there is the middle of the group and the poorer quartile. Now, the whole rationale for that program is not about that but to show the standards of performance and what, in the analysis of the business, can be done by some performers to improve their business.

I am confident about the State's industry. I do not think we can overcome the generational decline. We have to find a position and advice. I think it is with identification with the farmers who want to be farmers and want to have bigger and stronger businesses. You do not have to be big to be good. Small farmers operate on very good margins—good operators. But there is just not enough money, so we can talk about margins per kilogram of milk solids, but then we have to talk about total dollars. Now that squeezes on the small farmers, mainly by their overhead costs. I am very confident as an individual. I have just bought a neighbouring farm.

I am a bit too old to be that unwise, but I just think it is a great industry to take your opportunities in. We really had a test with the drought. I recall the drought of the eighties and many of the older wiser heads who just did not like it at all said, "Geez, we have learned from this." It is part of the nature of Australia. It was a three-year test. But we are coming out a bit confidently and there will be some performance and operational resets. The market is there. That is my point. We should take advantage of it as New South Welshmen. It is a strong State market. There is good revenue there. There are good dollars for everyone—community and all.

**The Hon. WES FANG:** Before I ask Dr Garcia to also provide a response, Mr Zandstra, you have touched on what was going to be my next point, which was that we have just come out of one of the worst droughts in living memory. What do you see as the learnings that we can take from this one that we may not have implemented from our previous droughts? Then I will ask Dr Garcia to comment.

**Mr ZANDSTRA:** Yes, I think the learnings are in the business model. I do not think we could have covered the stress of this anyway, but all businesses need buffer or resilience in their business. They need operating margins and they can have the businesses choices from that. They have to build as operating performers to deliver margins. I do not think that has been enough overstated in the industry. Farmers just love farming, milking cows, doing work, paying their bills and getting on with it. But as part of the DPI's program and as part of our approach in the plan—is for business resilience and understanding. Certainly we have to learn that, as we are growing as businesses—and Scott alluded to this in the stocking rates and so on—we are really asking more of our operating farms. That comes into being better at growing more feed—farmers have got to be—to be better at conserving feed and certainly the conservation and storing of feed, even if that is a storing facility for purchased feed. Dairying is about feed, so that is where we are being tested. There is a part to play there in our thoughts of intensification and advice to farmers about the conservation and storing of feed. They are probably the two things: resilience in the business and to conserve the feed or access to feed in times of stress.

**The Hon. WES FANG:** Dr Garcia?

**Dr GARCIA:** I am optimistic by nature. I really believe that we look up a lot to be positive in this case, because we are talking about the most complete natural part, really. Also I think the lesson from COVID has shown us the risks that we face as a State and as a nation in terms of food security and food safety. Even from that big picture point of view, we have a lot to pull through in terms of the industry. Going more specifically to the challenges that you asked about the future, I really believe that we can categorise them into three different groups. The first one is farm underperformance. We have a very significant number of farms in the State that are very far away from the level that some other farms are at in the State.

There is some quite rapid action needed there. We also need to look for more opportunities for the other part of the spectrum: where to from there. The second big challenge, I think, is what we can do together to de-risk the industry for future growth. Again, looking at the lessons from last year—and not only last year, I guess, but everything that we have talked about here with the drought and COVID and the price et cetera—there is an opportunity there to be a lot better prepared for future growth and future catastrophes: drought, fires et cetera. De-risking is not only to be prepared for catastrophes; it is also to be prepared for how we better address the concern from the public and the question that we were referring to before from the other Committee member. The

third group, in my view, is new markets. How do we work together with the Government and other organisations, processors and the private sector to look for other opportunities? Because now we are obviously at a point in the cycle where milk is highly sought after, but that can change as we know from previous cycles. Coming back again to my first point, which is the very high-quality product that we have and that we are talking about, the opportunity to develop new markets and new options is in my opinion quite big.

**Mr HANSEN:** I might just quickly add that one of the things that Mr Zandstra and the Committee did do was have a think about what might be possible out of a research and development and extension or adoption plan. In their thinking—and to sort of summarise—they see that if we get the right suite of projects being done, creating the new knowledge and then being adopted by industry, then we could realistically expect to see an increase in milk production in the State by 300 million litres over the next eight years. That is in an efficient, effective and balanced manner. That is not pushing the current system beyond its capacity. It is focusing on both the animals themselves—the genetics, wellbeing and disease and health protection of the animals—as well as focusing on the feed production systems, maximising the utilisation of our native and natural grass production systems and improving the feed conversion efficiency of food availability. That also has flow-on benefits with regards to carbon emissions and the significant role that the industry could then play in carbon neutrality and the goals around that.

In addition to that, the business systems of dairying have significant opportunities to reduce input costs such as energy. We have a number of projects underway across the State that are looking at not only on-farm power generation but peer-to-peer trading of that generated power, to look at how you assist the bottom-line profitability loss while at the same time providing environmental benefits and outcomes. There is quite an exciting coming together of both the potential for efficient and effective increases in production—to go from the just over 1 billion to 1.3 billion litres of milk being produced to help satisfy both the domestic and interstate and international demand—whilst at the same time turning our attention to how we adjust the production systems to help with some of the community's big goals around carbon neutrality and reducing the reliance or the need for externally generated power and the cost of that input into the business.

**The Hon. WES FANG:** Dr Garcia, I was interested in some of the points that you were making about what you see as the challenges moving forward in the dairy industry. I was one of the members of the previous dairy inquiry, as was Mr Veitch. I am not sure that there were any others. We were fortunate enough to attend a dairy farm that was largely automated. Last year I was again able to attend one that was actually fully self-powered. It was a fabulous thing to see, from the environmental aspects that Mr Hansen was talking about but also the workload on the farmer. We are talking about trying to attract younger people there. Do you see the workload that dairying traditionally had as driving people away from dairying? Do you think that technology and some of the R&D work that you are looking to do can benefit the future generations being attracted? What more could be done in that space to make becoming a dairy farmer more attractive to future generations of New South Wales children?

**Dr GARCIA:** Thank you for the question. Yes, the answer is: absolutely. We have run the project FutureDairy for over 12 years in conjunction with the NSW Department of Primary Industries and the Australian company DeLaval. We were the first to bring the robots to Australia and co-developed with DeLaval their new system, the robotic rotary milking machine. So definitely yes, I do believe that we will not be milking cows in the same way in 20 or 30 years that we are milking cows today. It is happening and it is changing. More than replacing the labour, as you were perhaps mentioning, it is more about automating the repetitive tasks and therefore allowing farmers more time—farmers are really time-poor, as everyone knows—to concentrate on the really important aspects of the business.

At the same time, there are a lot of additional benefits to automation. One example is actually cow-human relationships: cows become more calm. We will refer to it, actually show that and publish that in international journals demonstrating that cows become calmer, because the robots always milk cows in the same way every single day, 365 days of the year. They also present the opportunity to apply technology that can help farmers to monitor the cows even more efficiently than if they are seeing the cows all the time. So absolutely, yes, I believe that technology and automation are key components of the future of dairying in general. New South Wales is actually in a really unique position to lead a lot of those changes, particularly when you put together the resources that can be put to work—like the department, the university sector or the private sector—as we are doing in this new R&D project.

**The Hon. WES FANG:** Mr Hansen, Dr Garcia sort of touched on what I was going to ask for my last point. I think Mr Zandstra did as well in his answer previously. One of the learnings that came out of the drought this time around was that resilience in the actual business sphere. Is the department looking to help farmers, both those existing and those entering, to upskill in the actual business component of dairying? Most farmers are very

good at doing the manual tasks around farming, but sometimes they might lack current skills around the business. Is that something that we are looking to do into the future?

**Mr HANSEN:** Yes, definitely, and not just into the future. It is something that we have been doing for a while and it is something that we have put a particular focus on. I will go to Ms Lorimer-Ward in a minute to expand a bit more. A committee from the other House has been holding inquiries around drought and the Government's response and its impacts on drought. One of the things we have talked about there is that we have made a conscious decision this time around to actually go and collect the stories directly from the farmers themselves about things they did that worked and did not work, their learnings and their lessons.

We will document them and put them together so that future farmers coming into the next drought—because it is inevitable that there will be another one—do not have to relearn mistakes and can actually learn from successful examples elsewhere. That has been a really powerful piece for us and I am happy to make available to the Committee the number we have published. We do have a strong suite of business-skill-focused training programs. It is something that we have had a long history in helping build skills sets in the long term through our Tocal Agricultural Centre at Paterson, but it is something that we have put a particular focus on over these last five years. I might get Ms Lorimer-Ward to speak to a couple of those.

**Ms LORIMER-WARD:** Last year we did actually make some significant structural changes within our dairy unit to establish a specific dairy business advisory unit to really pick up on this point that dairies are now much more complex businesses than they ever were. Most agricultural businesses have had to make that adjustment. As you remove those central pools and pricing systems, they now have to become marketers and have all these other skills within the business. So we have specifically set up this dairy business advisory unit. It offers a range of programs, including the dairy monitoring program, but also offering to work one on one with farmers around their business and their business planning. It is about providing a whole lot of online tools and resources as well as groups work and things like that to support. We are doing that closely with the dairy industry because they have obviously invested in a range of products as well to support that.

But I think the other pieces to that and picking up on the automated discussion earlier are that we have been framing a lot of our work and projects in that decision to automate. If you wanted to consider going into robotics it is actually making sure that people consider what impact that will have on their business, how they will finance that and, importantly, how you operate it because you are completely shifting your business. We are making sure that people have those resources to do that and make those informed decisions. So, there is quite a significant change for us in shifting from just a production perspective now right into the business. We support that with a number of other programs too.

**The Hon. PETER PRIMROSE:** Mr Zandstra, I have just one question, if I can please. Can you name three specific things that you would advocate that the New South Wales Government needs to do differently to ensure the long-term sustainability of the dairy industry in New South Wales.

**Mr ZANDSTRA:** Needs to do or is doing?

**The Hon. PETER PRIMROSE:** No, needs to do.

**Mr ZANDSTRA:** I think the needs to do is actually what is projected in the plan. I think we really have to get to farmers with more and better advice. Ms Lorimer-Ward and Mr Hansen have just talked of the financial advice they have available.

**The Hon. PETER PRIMROSE:** So they are not doing that at the moment?

**Mr ZANDSTRA:** They are doing it very well but it is not getting to farmers. It is not evolved. Where the communities were tighter, discussion groups were more common. Farmers are still very civil and friendly people, of course. Once each region supplied one processor. There is plenty of good reason, then, to meet and get together. So, we have to find a way to get better discussion groups going. One on one is so important, of course, when you get to the real detail of an individual farm, but as far as getting access to this information that might be online, not accessed, there is just not enough discussion groups and meeting groups for farmers, really. I think that is a change. We talk of that and others talk of advocacy, which would enable this. I think the importance of intensification—and it need not be large-scale intensification with house cows and thousand-cow farms—the fact is that you have to improve and intensify your feeding systems and feeding conservation, and that is better and more feed per cows.

**The Hon. PETER PRIMROSE:** Can I ask this: How is the Government not promoting that at the moment?

**Mr ZANDSTRA:** Well, we are suggesting that they promote it. There are available funds for farmers to invest in those sort of things. I do not think that knowledge is getting to farmers. There is a farm innovation fund or something.

**Ms LORIMER-WARD:** Yes.

**Mr ZANDSTRA:** There are things, so in truth I am not saying there is fault or not enough effort from the Government. I think there is not enough awareness of uptake from the farming community and some of that comes—

**The Hon. PETER PRIMROSE:** Sorry, if I can come in, Chair: My question to you is: What would you advocate that the Government should be doing differently now? Just three things.

**The Hon. WES FANG:** Point of order: The Dairy Advocate, Mr Zandstra, is certainly providing a very fulsome answer. I ask that he be allowed to continue. On his conclusion, if he has not provided a response to Mr Primrose, by all means Mr Primrose can follow up with a supplementary.

**The Hon. PETER PRIMROSE:** To the point of order: I think Mr Zandstra has not understood the question. I am asking: What, as the Advocate, would you advocate that the New South Wales Government needs to be doing differently than it is doing now to ensure long-term sustainability?

**Mr ZANDSTRA:** Well, I will give you one point that is in the action plan and I think there is not enough—there is not an overarching culture of transition of ownership or the entry of new farmers. It is difficult now on farms because the farms are dear and so on. I think there should be an entity—and we have talked about this—that does provide that information. Dairy Australia has it to a degree but I think we could focus on it—the support and advice to young farmers to enter the industry. The other side of this is not only the young farmers it is the farm owners who can be so helpful.

I entered the industry on vendor finance from a very supportive local farmer who was there when I was a younger boy. I myself have helped three young farmers to enter the industry through my own financing structures—you know, financed the cows. So, it is not only the young farmers being given a chance; it is the change of culture with the current farmers to maybe hang onto the land, hang onto their asset, still play in the industry which they have always loved and give an opportunity to the next generation of farmers. We propose to see that there is a group, whatever one might call it in Mr Hansen's department, that is available for advice, resources on that because there are young farmers who want to have a go. There are young farmers in my area entering the industry.

Talking to the famous Bill Fulkerson, who once had Professor Garcia's job and is now at Norco. There are as many young farmers entering the industry as there are farmers who have left but they are not buying. They are starting up on farms which have ceased dairying. So, I think we should focus on that—find a way to focus on that—for the sake of the industry and for the health of, you know, having farmers on the ground producing milk and so on. That is one field where I feel we could be more active and there are other such things in the plan where we are saying, "Have a better and closer look at things."

**The Hon. PETER PRIMROSE:** Okay. I would maybe, rather than persist with this—

**Mr HANSEN:** So—

**The Hon. PETER PRIMROSE:** No. I am asking Mr Zandstra at the moment. Can I just ask that you take on notice, please, just three things that you believe are not adequately being addressed at the moment that you would advocate be addressed?

**Mr ZANDSTRA:** Okay. I will do that.

**The Hon. WES FANG:** Point of order: That question is asked on the assumption that there are three things that need to be addressed. The New South Wales Government and the department may well be doing the things that Mr Zandstra is advocating for and they may not have three things.

**The Hon. PETER PRIMROSE:** Chair, may I simply say that the witness is perfectly able to answer as he wishes. I would argue that the reason for having an advocate is that they advocate for change and for things, not simply act as a supplicant. Now, I am not suggesting that is what is occurring but I am simply giving the witness the opportunity to name three things that he would be advocating for that are not occurring at the moment, and please take that on notice.

**Mr ZANDSTRA:** Yes. It is a fair comment because we have 29 recommendations in at play and some are of greater and lesser weight but they are all ways of looking for policy and advice for the Government to create a better landscape within which to be a dairy farmer. One of them is the change of the water harvesting on the

coastal rivers. Now that is in play through the water Minister and so on but it has been a strong issue for the farmers in those areas that must be changed and I think it is in a state of change.

**The Hon. MICK VEITCH:** I have a series of questions. Mr Fang will probably be upset about these because—

**The CHAIR:** Can I just ask one?

**The Hon. MICK VEITCH:** Certainly, Chair.

**The CHAIR:** Just going from Mr Primrose's question, you spoke about the department is not necessarily getting the message to the farmers about some of this education and information, so do you think the Advocate could play a role in that space and even the industry panel could play a role in that space in facilitating those discussion forums that you were talking that sort of fell by the wayside and need to probably happen? Do you think your role and perhaps the industry panel could help facilitate that transfer of information since, as an advocate, you would be hearing from the farmers anyway?

**Mr ZANDSTRA:** It is an excellent question, because I am not in any way criticising the department. I cannot criticise Dairy Australia and their service offer or their different subgroups in New South Wales. The farmer uptake is not great, and that is a real problem. It is a problem of a sense of unity in the industry, and I think that has been affected by the negative commentary on the industry, which has been too strong, and maybe a lack of confidence in the industry which comes from that. So we have to have a more confident and positive industry, because there is a good place for everyone in this. So I think I am not in any way commenting upon the service offer or the way of offer. We do have less people on the ground in the DPI than we once had, Mr Hansen. So that has changed; it has changed in every State in Australia.

But we have to keep farmers more active in the extension, and it is a question for extension. I am a great advocate of extension and the service offer that should be and is available. The other part of this, and I have been reminded of this, is it is not a good extension or a successful extension if the appetite for uptake is not there, and that is what we have to change. Because we are talking about brightening up an industry in an economic sense. So I am positive about the industry, but we have to be positive about changing for the better that which we can do to have resilient dairy farmers. After all, it is about dairy farmers.

**The Hon. MICK VEITCH:** I want to continue on your comments around extension. Wherever I travel in regional New South Wales and talk to farmers in general, but particularly dairy farmers that have been talking to me over the last couple of months really—since just before Christmas—extensions has been raised with me. Is it fair to say that it is not just extension services but also who provides the extension services, and the nature of those extension services which are provided, that is also part of the discussion?

**Mr ZANDSTRA:** That is probably what I am alluding to. I think the service offer is tremendous. I think Dairy Australia cannot be criticised. Some people criticise it because there is only 40 per cent uptake and therefore they are the wrong programs. Well, what are the right and wrong programs? I do not know over time, but I am sure those people are focused on their service offer. The people on the ground providing extension—the arenas with which one-on-one can be done at great cost and the arenas in which we can get discussion groups going again and farmers to attend. There is a lot of diversity amongst farmers too; they are not these local, small, intensive groups, as they once were. But I think extension is a very important part in this, because we want a bright learning landscape, quite frankly. That is how I look at it.

**The Hon. MICK VEITCH:** Mr Hansen would recall that prior to the last election I made a number of commitments around enhancing extension services in agriculture. I am a firm believer in extension services and what they deliver. My issue is these days the way in which they are being delivered is actually causing angst for not all farmers but for some. I think we actually have to have the engagement with the farming sector around what it looks like, and how they receive them on the ground is critical. We need to have that engagement. I will put some questions on notice about that, because it is actually a very important element.

**Mr ZANDSTRA:** But I have got no criticism of the service offer. It must always be questioned and perhaps change over time because the landscape changes and the providers get wiser. I mean, there is learnings there too. I think it is just not getting out there well enough. I do not wish to criticise your department at all, Mr Hansen.

**Mr HANSEN:** It is the Holy Grail for us, and if someone can tell us where it is buried, we would love to get there. If anything, the irony in this conversation is the fact that when you look at uptake, the fact that we have got 63 dairy farmers that have actually got Farm Innovation Fund loans—I would love to have that percentage of uptake across the rest of our agricultural sectors. That is a really good representation of just over 500 farmers that are actually taking that up. It is interesting, and probably another topic for another day for us,

but, you know what, over the course of COVID and bushfires, we held numerous meetings with the dairy industry to help facilitate workers, product, trade across State borders that were closed and shutting, with rules changing. And in the instance of 24 hours we could have an industry briefed about what new rules are needed to comply with how that needed to work to get them passes, to get them access to be able to—so we have all shown a propensity to learn quickly when we have needed to, either new technologies or new rules. It is about finding that right combination of the environment, the motivation and the information availability at that point in time to be able to make those things come together.

Our ambition and our hope is that the six people we now have in our dairy outreach team—which, again, I would love that percentage of people being able to work with that number of farmers—so that is one person to less than 100 farmers in the State to be able to work with, now find themselves in a position where the environment, i.e. both physical environment and economic environment, starts to create the opportunity for more rapid uptake of some of the tools and some of the information. Because it is being created faster than it ever has in history; it is just getting it to the right people at the right time for them to do something with it.

**The Hon. MICK VEITCH:** I have got a list of questions that I will put on notice relating to water security, the mandatory code, fat and protein measurement, and that regime. What I would really like to get on the record now, though, is the impact of land use conflict on the sustainability of dairy farming in New South Wales. In the time that you all have available, what are the issues around that? I know that the State Government has had a discussion paper. I think it was from May last year or thereabouts. I might be wrong, it might have been April last year. But anyway, there was a discussion paper last year. I want to know what your views are about the impact on the sustainability of the dairy industry of land use conflict.

**Mr HANSEN:** As you would be aware, the Agriculture Commissioner is actually holding a series of webinars with industry and council this week on this very subject.

**The Hon. MICK VEITCH:** I do.

**Mr HANSEN:** So I have not had a chance—

**The Hon. MICK VEITCH:** I know you would be surprised that I am up to date with what is going on.

**Mr HANSEN:** I was well aware that you would be. I have not had a chance to loop back round to Daryl to see what feedback he has been getting out of the discussions. But, needless to say, the dairy advocate and the Agricultural Commissioner have been working hand in hand on this subject. You will see in the Dairy Industry Action Plan a series of recommendations. Linking back to that question before about the three key priorities of action, there is 29 that are listed, the vast majority of which we have some form of action in play, which is probably the difficulty of—so what is not something that is actually started somewhere? But a lot of them have got a lot of work that needs to be done. Three in particular there are around the recommendations for government to give guidance to councils around the planning needs for confidence for the industry, both the characteristics of the land use, the infrastructure and the pieces that need to be taken into account before councils go making decisions about development and land use change.

The fact that we need to consider is how we fast-track farm development approval processes for the construction of sheds and facilities that would not form under normal farm development proposals but are specific to the needs of dairy industries. And the fact that to be able to navigate land planning processes and farm development application processes, the recommendation from Mr Zandstra and his panel has been for us to develop a targeted set of materials for dairy farmers to be able to just pick and lift and know everything that they need to do and how they need to go about doing it. So the combination of those recommendations with the combination of what the Agricultural Commissioner will be bringing together out of the current discussions with both councils and industry I am sure will come together in a government response to what might need to be done.

**The CHAIR:** That takes us to the end of the session. I think there were a few questions taken on notice. You will have 21 days to answer them once the secretariat—

**The Hon. MICK VEITCH:** Mr Chair, I think Mr Hansen indicated the department will provide a copy of those case study notes.

**The Hon. WES FANG:** That would be very interesting.

**The CHAIR:** If you could provide that as a question on notice, that would be great. I think there was also a copy of the role description of the dairy advocate. That would be fantastic as well.

**The Hon. CATHERINE CUSACK:** May I ask a question that could be taken on notice? Do you have any figures on return for capital in agriculture across different industries that might show us where dairy sits in that spectrum, or can you suggest to us somewhere that we can obtain that information?

**Mr HANSEN:** We will be able to find that for you and we will be able to provide that on notice.

**The CHAIR:** Thank you, Mr Hansen. That concludes the session. Thank you very much for your time. We will see you in budget estimates, Mr Hansen.

**(The witnesses withdrew.)**

**(Short adjournment)**

**MARCUS BEZZI**, Executive General Manager, Specialised Enforcement and Advocacy, Australian Competition and Consumer Commission, before the Committee via videoconference, sworn and examined

**GABRIELLE FORD**, General Manager, Advocacy, International and Agriculture Branch, Australian Competition and Consumer Commission, before the Committee via videoconference, affirmed and examined

**The CHAIR:** Mr Bezzi, did you want to give a brief opening statement at all before we proceed to questions?

**Mr BEZZI:** I think that would be helpful. I am just wondering whether Ms Ford is having a problem hearing us. I might begin with the opening statement while you sort those technical difficulties out. I am assuming that most members are broadly familiar with the role of the ACCC. We are obviously an independent Commonwealth statutory authority that is responsible for enforcing the Competition and Consumer Act. In relation to fair trading issues, we do that in conjunction with a number of State fair trading agencies, including the Office of Fair Trading in New South Wales as well as the Australian Securities and Investments Commission. Over many years, we have developed or we have engaged in extensive analysis of the Australian dairy industry. A couple of things I have mentioned is that in 2001 we did a very detailed study of prices, costs and profits following farmgate price deregulation. In 2018 we conducted an inquiry into the competitiveness of prices, trading practices and the supply chain in the Australian dairy industry. That was the dairy inquiry. That led to the introduction of the dairy code.

We have also analysed the dairy industry in the course of investigating proposed mergers, collective bargaining arrangements and several alleged unfair contract terms in milk supply arrangements. We have developed a substantial understanding of the dairy industry. I just might mention a couple of things that came out of our dairy inquiry. The mandatory dairy code of conduct was a very substantial improvement in the regulatory framework that supports the dairy industry. It particularly supports the dairy producers, the farmers. It came into effect on 1 January 2020 and it prohibits retrospective step-downs and exclusive supply agreements, combined with maximum volume or tier pricing that restricts unilateral contract variations and introduces a dispute resolution process. It was not ever intended to be a sort of magic wand that would fix all the problems that are faced by dairy farmers, but we think that it does even up the imbalance in bargaining power between processors and the farmers to a considerable degree.

We feel that some particular provisions of the dairy code are particularly important. I might just mention a couple of them. There is a provision that requires good faith negotiation under the code, there are various requirements for milk supply agreements which need to be published and made transparent and there is a minimum price under the dairy code under a contract. There are bans on step-downs, and you will remember that we have taken some cases relating to dairy processors who retrospectively stepped down the prices that were made available to dairy farmers. What that meant was that instead of paying the dairy farmers, they were requiring the dairy farmers to reimburse them rather than continuing to be paid. That was, we thought, a quite oppressive and inappropriate exercise of market power.

The dairy code is very much a work in progress and it is subject to a review that could take place from January this year. That is the responsibility of the Commonwealth Department of Agriculture. We kept working in this area, and most recently towards the end of last year we published a report on compliance with the dairy code. I can go into that in a little bit of detail, but I do not propose to in my opening statement. The final thing I just want to mention is that we published an inquiry into perishable agricultural goods towards the end of last year. In that inquiry, we made four recommendations. One of those recommendations was that there be an economy-wide prohibition on unfair trading practices that should be introduced into the law. The group of Ministers nationally—that is State, Territory and Commonwealth Ministers who are responsible for the Australian Consumer Law—are looking at that issue and we understand that it is likely to be progressed in some form. We very strongly agree with that as a proposal.

There were other recommendations we made, including that the business-to-business unfair contract terms framework be strengthened, that the food and grocery code should be strengthened by making it mandatory for retailers and wholesalers and by introducing significant penalties for contraventions. We have also recommended that governments and industries, including the New South Wales Government, to explore measures to increase price transparency in perishable agricultural goods industries in order to increase competition in those industries. That just touches on a few areas. I think my colleague Ms Ford can now hear us and what I might do is invite her to add anything specific that she wants to before we conclude the opening statement.

**The CHAIR:** Ms Ford, do you have anything that you would like to add to the opening statement?

**Ms FORD:** Yes. I felt that of the terms of reference for this inquiry what was particularly relevant was the nature and relationship with the value chain between farmers, processors—logistics companies we did not look at—retailers and their respective influences on price. We most recently looked at this in our perishable agricultural goods inquiry that was completed in November 2020 and released by the Commonwealth Government in December. With respect to dairy we did have some key findings that I thought this Committee would find useful.

The first point was that we did note the very challenging environmental conditions in recent years have increased dairy producers' costs of production considerably. In the most recent 2018-19 season, average farmgate prices did not increase in line with the cost of production and farmers overall out of pocket costs declined. That said, profitability does differ between different farms and different times, with some being more profitable than others. Producers in northern regions are generally paid considerably higher farmgate prices than their southern counterparts. For New South Wales, relative to Victoria, there was approximately 13 per cent higher farmgate prices across a five-year average compared to the Victorian prices. Farm costs of production are one of several variables that processors take into account when setting farmgate prices, but these are not the key determinants each year. I can go into that in detail if you wish.

The ACCC, again, reviewed the operation of private label pricing and the operation specifically of pass-through mechanisms in contracts between retailers and processors. We found that most private label contracts and some contracts for other private label dairy contracts for milk and other products allow the dairy processors to directly pass through farmgate milk prices to get the wholesale prices they charge [audio malfunction]. Finally, many in the industry are concerned that private label pricing has removed substantial value from the dairy supply chain. But historical pricing data, we found, showed that higher retail prices have not led to higher farmgate prices or farmer incomes. Higher retail prices extract revenue from consumers and redistribute this to [audio malfunction] and processors. That concludes the key points of the most recent inquiry.

**The Hon. MICK VEITCH:** With regard to the mandatory code of conduct, how many processors are currently under investigation for not following the requirements of the code?

**Ms FORD:** We do have processors currently under investigation; it is multiple processors. Which live investigations I am unable to go into in more detail than general ones from a process point of view, but we are still in the process of some quite in-depth investigations of [audio malfunction] breaches of the dairy code. We expect to have some outcomes, again, in the next couple of months and then further ones for this year.

**Mr BEZZI:** I might add that we published the report on our website in December last year on what we called initial observations on compliance with the code. We have also published a couple of press releases which talk about outcomes of investigations into Saputo and into the Union Dairy Company in Victoria. If you want more information, I can take you through some of the points in that compliance note or you can find it on our website fairly easily.

**The Hon. MICK VEITCH:** I will have a look at it. I would like to know if there are some general themes here to the investigations. It is a new code and I would assume—and I could be wrong—that there would be a settling in period for all the stakeholders involved. Has there been a period of grace provided to assist people in settling into that and are there some themes to some of the issues? Is it farmgate price? That sort of stuff.

**Mr BEZZI:** I will let Ms Ford add to this but just on your question on period of grace, the code came into force in January but the most significant obligations actually occurred in the middle of the year when processors had to publish their milk supply agreements. They had six months to get themselves organised to do that. In terms of themes, we did see a small amount of potential noncompliance that we looked at closely in relation to publication and timely publication. You will appreciate that one of the really important things about this code is that people publish on the same day and that is because they are publishing a price. What we do not want is for people to get a competitive advantage by publishing after their competitors. We looked at those issues and there is also a requirement that a report be published on disputes and that is an issue that is also being looked at. I will invite Ms Ford to add to what I have said.

**Ms FORD:** I would just add that in that first six months between the code coming into force on 1 January 2020 and then the first substantive provisions coming into force in June of that year, we conducted a quite intensive process of compliance education to processors and farmers to assist both sides of the trading relationship to understand their rights and obligations. Then, as Mr Bezzi has said, we did see some initial issues about the publication of milk supply agreements on 1 June with some processors missing that deadline—Saputo by a very slim period of time and the Union Dairy Company had also not published the milk supply agreement. The ACCC took very prompt action regarding those. More generally, in the short time that we have had the code in effect we observed that it has brought positives changes in the industry, but there are some areas where we think processors will need to improve their compliance.

There has also only been one period where dairy contracts have been renewed since the code came into force, so there is some time that the industry needs to take to settle with this new form of regulation. But back to the positive developments, we did see some evidence of competition among processors on raw milk prices following that 1 June publishing requirement and we have seen, from that and other aspects of the code's requirements, increased transparency because farmers were able to get better access than they had had before to product information with a sufficient amount of time to consider their options. Also importantly there were written agreements in operation across most of the processors that we have reviewed compliance with. Although those are good signs, we think there is still not yet enough information to really give a proper assessment of the effectiveness of the code and whether it has achieved its goal for mitigating farming power imbalances, but pleasing signs to date.

**The Hon. MICK VEITCH:** I guess that will be a part of the review, that sort of discussion. With regard to the bargaining imbalances, you talk about processors there, but the code applies to dairy farmers as well. Are there any dairy farmers that have been breached for not adhering to the code, as a matter of interest?

**Ms FORD:** No, there have not.

**The Hon. MICK VEITCH:** I would suspect not.

**Mr BEZZI:** It is very unlikely that dairy farmers would be in a situation where there would be a breach, but it is theoretically possible. But certainly the total focus of our compliance work has been with processors.

**The Hon. MICK VEITCH:** Mr Bezzi, in your opening comments you spoke about the ACCC's findings on the perishable foods area. As I understand it, that discussion included supermarkets being subject to the dairy code. Is it intended that supermarkets will be eventually pulled into the dairy code of conduct?

**Mr BEZZI:** To the extent that they have a direct relationship with producers—and the major supermarkets each do have a direct relationship—they are already covered by the dairy code of in relation to those contractual engagements. I think what we are particularly interested in is the food and grocery code being made mandatory and that supermarkets cannot simply decide to take themselves out of the code regime. At the moment it is a voluntary code. They can volunteer to be part of it or not, and it really does not have the sort of robust sanctions framework that we think is appropriate.

**The Hon. MICK VEITCH:** I probably agree, actually. There has been a fair bit of discussion about the supermarkets, both in this inquiry and a previous inquiry. So they can voluntarily opt in or opt out, is that what you are saying or did I misunderstand that statement?

**Mr BEZZI:** Yes, that is the way a voluntary code works. Once you opt in, you are bound by the code, but you can opt out whenever you like.

**The Hon. MICK VEITCH:** Have they opted in?

**Mr BEZZI:** Woolworths and Coles have certainly opted in for the moment, but there is no obligation for them to remain in the code.

**The Hon. MICK VEITCH:** Then how does the ACCC monitor or supervise the prices, when you go into Woolies or Coles or wherever to buy your milk, as it relates to the farmgate price? That whole correlation from farmgate to supermarket price or retail price, how is that covered or checked by the ACCC as part of the code? Or is it?

**Mr BEZZI:** We do have monitoring powers that have been given to us from time to time to conduct our inquiries and, when we have done that, we have had a really good look at the way the price works from retail through to farmers. We have made findings about that process, and Ms Ford alluded to those findings in her opening remarks. But we have looked at it a few times now and we have come to the same conclusion each time. I am happy to pass back to Ms Ford and she can take you through the detail, if that is what you are interested in.

**The Hon. MICK VEITCH:** Yes, please.

**Ms FORD:** The crux of the conclusion is that farmgate prices are not determined working backwards from the retail price. What we discovered is that farmgate prices are mainly driven by the processors' demand for milk, so how much they need to supply their customers, and the level of competition that the processors face to procure that milk. The need to be competitive in price with the global commodity prices is also a very important factor there. The wholesale prices that the processors receive from the supermarkets are one thing that is taken into account, but the fresh milk is not a strong influence on the farmgate price. The reason for this is, for private-label milk in particular, that there is this pass-through mechanism in the contract which means that whatever farmgate prices the processor sets and pays to the farmer directly is recognised in the wholesale price

that the retailers will pay. There is a process of supermarkets checking that that is truly the farmgate price that was paid, but it is not a matter of negotiation.

On branded milk, demand is very stable. Consumer demand does not change much, especially in the northern regions like Queensland and New South Wales, where nearly all raw milk production goes into fresh drinking milk. This very stable demand means that the prices also do not change very much. There is also not much room for competition because demand is very, very flat. So even if wholesale or retail prices were to increase, there is little reason for processors to pay higher prices to farmers. And this is where we come back to our assessment of the bargaining relationship between farmers and processors. That is where the ACCC's findings pointed towards where things could be improved for farmers to arm them with better information and remove barriers to their options for supplying processors. We recommended that the way to do that was through the mandatory code of conduct.

**Mr BEZZI:** I might add that each time we have done this we have also found that, although you may not expect this, the sales of the very low-price milk have nevertheless been marginally profitable. So that fed into our decision that this was not predatory pricing, if I could use that expression.

**The Hon. WES FANG:** We used to call it "dollar-a-litre" milk but thankfully now we have not seen dollar-a-litre milk for quite a while, but I have just rechecked on the website and one of the major retailers is still selling what they call "drought relief milk". I know that there are certain farmers who are still struggling with the ongoing effects from drought, even though we have seen improving conditions. Now that there would be a direct correlation between that milk and the farmers through the code, is it the ACCC's job to actually ensure that that milk that is labelled drought relief milk is providing additional benefits to the farmers who are producing the milk for that major retailer? What steps are you taking to ensure that the additional rollout of funds to those farmers is continuing, given that it is still labelled drought relief milk?

**Ms FORD:** If I have understood the question correctly, and please correct me if I have misunderstood, the ACCC doesn't have an ongoing role to monitor the implementation of drought relief milk. However, retailers do have an obligation under the consumer protection laws to be truthful about the nature of the representations they make about how farmers benefit from pricing and the drought relief representation.

**The Hon. WES FANG:** Just to clarify my question, given that they have labelled it "drought relief milk", does that labelling then enforce the code on the retailer because it is part of the dairy code? Does it capture the drought relief milk? Does the ACCC then have a way of mandating the flow to the farmers?

**Mr BEZZI:** The obligation that Ms Ford talked about is actually a general obligation that applies to all traders to essentially not mislead people. If they are going to make representations, they have to be able to support those representations. I notice for example in Woolworths' submission to this inquiry they have said that they do support dairy farmers and they claim to have provided \$60 million to more than 450 dairy farmers from this dairy levy that they have raised. Now, if that was untrue, if there was evidence that that claim that Woolworths are making, not the one that they are making to you in the course of the parliamentary inquiry—I expect that would be caught by parliamentary privilege. But if they are making that claim in trade and commerce, then that is certainly something that we can take action about, as can the Office of Fair Trading in New South Wales. We can certainly take action in relation to that if we have evidence that it is untrue.

**Ms FORD:** Just to follow on from that, there was an investigation that the ACCC conducted in 2019. It did result in an outcome where Coles paid back Norco farmers in northern New South Wales around \$5 million following the ACCC's investigation regarding their claims about how a 10c per litre price increase would be passed back to farmers. We had reason to initiate an investigation into that issue. There were some doubts about the veracity of those claims, which resulted in what we call an enforcement outcome, where Coles paid back farmers for payments that they had not actually received at the point of—

**Mr BEZZI:** I should say that dairy farmers and others are very good at bringing those sorts of claims to our attention if they are at all dubious. That does very much assist us in being able to spot these things and then decide whether or not to instigate an investigation which then might lead to the sort of action that Ms Ford has outlined.

**The Hon. WES FANG:** Given that answer, who would be responsible for ensuring that, where a major retailer labels their milk as drought relief milk, there is an additional benefit paid to farmers, as most consumers would expect a milk of that nature would provide to the industry in general?

**Ms FORD:** The consumer protection laws within the Australian Consumer Law that the ACCC and States and Territories also have responsibility for enforcing do apply to the claims that businesses make. They must ensure that those claims are not misleading or deceptive, such as the Norco case. The ACCC took carriage

of that investigation. We would step in in matters where there is a widespread issue, a lot of people affected and potentially a lot of damage done, whereas the States and Territories often take a more localised approach to that.

**Mr BEZZI:** But the answer to your question is that there are about 10 agencies that are responsible: the ACCC plus the Fair Trading agencies in each of the States and Territories.

**The Hon. MICK VEITCH:** I think, Mr Bezzi, in your opening statement you said that—it might have been Ms Ford—arising from the implementation of the code, the ACCC had sighted or observed some competition coming back into this area. Can you just give us an example or a couple of examples of how that competition has returned or is returning to the sector arising from the code?

**Ms FORD:** In brief, with the publishing of minimum prices as required by the code on 1 June of each year, you could see publicly that some processors would revise their price offers upwards. I could not recall the exact percentage increases, but they were quite significant. We felt that was a benefit of the increased transparency.

**Mr BEZZI:** That is essentially because they are having to go out there and put the best offer that they can to the dairy farmers so that they can get the milk that they need for the year ahead. That is as a result of the process that the dairy code establishes, where they each have to announce their price on the same day, at the same time, together with the terms and conditions associated with that price.

**The Hon. MICK VEITCH:** I think, Mr Bezzi, you mentioned timely reporting of the arrangements. As I understand it, that is the same day. Timely is actually defined as on that day. That could be midnight on the day or close of business on the day. I am not saying people are unscrupulous or would try and play the code, but is there a very clear statement about what is acceptable when you define timely?

**Ms FORD:** The code specifies 2.00 p.m. on 1 June.

**Mr BEZZI:** We had complaints that some processors put their offers up a few minutes late. That was regarded as a fairly serious matter because it potentially meant that they were getting some advantage by looking at other offers out there in the market. We looked at those complaints. In one instance, we found that there was an IT issue that stopped the publication actually happening; it had actually happened internally by 2 o'clock but had not been done publicly by that time.

**The CHAIR:** Ms Ford, in your opening remarks you said about the terms of reference that you did not look at the logistics companies. Why was that? Why did you not examine those?

**Ms FORD:** It simply was not part of the terms of reference that were set for our inquiries, both [audio malfunction] and the more recent perishable goods inquiry.

**The CHAIR:** In preparing for this hearing, have you since gone back and had a look at the logistics companies and their role?

**Ms FORD:** We have not.

**The Hon. EMMA HURST:** We have heard as part of this inquiry from a few of the industry groups about the labelling of plant-based alternatives to milk, that they would like to see some changes in there because of the switch that consumers are making towards the more plant-based milks. Are you aware of any evidence that consumers have actually been misled in the plant-based milk area?

**Ms FORD:** To date we have not. We are very aware of the concerns [audio malfunction] plant-based milk and foods. It has been an area that we've been on the lookout for, and what we were looking for is the sorts of labelling that are likely to mislead or deceive consumers. It is a very fact-specific and case-specific investigation. You have got to take into account the labelling itself, all the representations with the words and even the placement in the supermarket shelves. But to date we have not found [audio malfunction].

**Mr BEZZI:** And it is one of those things where it is unlikely that it is going to be an issue. People can tell the difference between almond or oat or dairy milk pretty quickly. They are not likely to think when they are drinking almond milk that it is dairy milk. And frankly they would be paying a premium generally for the other milk products. They generally do that because that is their particular preference. So it does not seem likely that issues would arise, but things that we do not think are likely sometimes do happen.

**The Hon. WES FANG:** Is the issue not that you may be confused on consumption but confused when purchasing, and it is actually the mislabelling of what is effectively a nut juice as opposed to a product from an animal?

**Ms FORD:** It is the first issue that [audio malfunction] a consumer may be mistaken. That is why the labelling is important [audio malfunction] the company, the wording, or whereabouts in a retail shop they are

placed. To give a basic example, if there was almond milk with representations that have connotations of dairy, with pastures and cows, that might be something that you would find to be likely to mislead a consumer in their purchasing.

**Mr BEZZI:** That is true, but generally people are paying a premium for these alternative products and they are actually seeking them out. The labels, in our experience, are making it clear that there is this alternative product that consumers want for various reasons.

**The Hon. WES FANG:** I have heard concerns from a number of farmers and industry groups that the mislabelling of plant-based products as animal products is of concern to them. It worries me when I hear the ACCC providing testimony that does not support that concern but also perhaps suggests that, if the packaging itself had imagery that did not indicate it was a dairy product, that would be suitable, given that the majority of those packages have pictures of the liquid in a glass, perhaps, and a consumer may be misled. Is it not better to just enforce the concept that what is not an animal product known as milk is not labelled "milk"?

**Mr BEZZI:** The people who buy these products are buying them because they do not want an animal product. They are not buying it because they think they are getting an animal product.

**Ms FORD:** The examples we gave were hypothetical ones. As I said, it is a very case-specific assessment in each labelling situation to assess its potential to—

**The Hon. WES FANG:** I do not want to labour the point and will certainly move on, but I guess it concerns me again that the majority of these products are packaged in UHT long-life packaging and they are usually with the long-life milk components, and perhaps consumers are thinking they are getting a premium product as opposed to a plant-based substitute. I just wanted to move on to where you see the future of the code. Do you see it as a document that may be alive and move with rapidly changing industry initiatives that perhaps are looking to be brought in? We heard today from the Department of Primary Industries that they are researching and investigating new ways to intensify and make dairying more suitable and sustainable into the future. Do you see the code being a document that can adapt to a changing dairying practice into the future?

**Ms FORD:** It is written into the code that it must be reviewed at least twice, with the first review to commence any time after 1 January 2021 and the second review to commence any time after, I think, January 2023. I should not speak for the Government, but I imagine one of the purposes is to make sure that it is fit for purpose and relevant to the—

**Mr BEZZI:** And we strongly support the idea of the reviews. As you say, there are dynamic aspects of this market which we think need to be taken into account. The changes to the market need to be taken account. In addition, the impact of the way the code has changed the purchase of milk, and the rules about purchasing milk through long-term milk supply agreements, are new and we do need to understand how they actually operate in the market. We certainly have a theory as to how they would improve the relationship between farmers and processors. We think the early evidence indicates that our theory was largely correct, but there is always the possibility of unforeseen consequences. So we very strongly support the idea of a review to just see what has happened and how the code has played out in the market.

**The CHAIR:** Since there are no further questions, we will conclude the questioning a little bit early. I do not believe you took any questions on notice, but if you did the secretariat will be in touch and you will have 21 days to answer them. Thank you very much for taking the time to speak to us today.

(The witnesses withdrew.)

**The Committee adjourned at 12:05.**