

14 March 2021

Senator Sterle

**Right of response to Additional Information supplied 9 March and 10 March by DA and ADF respectively.**

It is noted in both documents that there is confirmation of accuracies as presented on the 2 March 2021.

In reference to DA's response on the following questions

- Falling farm numbers and reduction in production within NSW - they confirm.
- Farms selected do not fully represent the average dairy farm – that quote is included in the ADP Profitability Paper, Appendix F, page 2. The data collected from these farms regardless of the number, in this case approx only half of a percent of the number of farms, is voluntary, this in it's self should indicate some form of bias. It must be questioned then are these farmers supporters of DA and therefore will present their figures in such light as to be favourable. What should be of concern is the non-participation of the other 99.5% of farmers. There is no way participation of the 0.5% of farmers is a good indicator of farm profitability.
- Membership and the right to vote – the Corporations Act deals with voluntary membership of an organisation. DA is NOT a voluntary organisation, it was established by Statute and membership is therefore compulsory, the member (dairy farmer) holds no assets and cannot refuse to withhold payment of levies. DA is limited by guarantee and each farmer is allocated 1 vote for every \$1 paid in levies. Companies limited by guarantee recognise membership either before registration or when the company enters your name on the members' register.
  - A dairy farmer is a Group A member and they qualify as per DA's Constitution under Section 8.2 if they pay a levy,
  - Their name is entered into the Membership Register under Section 9.1,
  - Under Section 12. VOTING ENTITLEMENTS REGISTER AND GROUP A MEMBER RIGHTS **it is the board that instigates the voting register not the Corporations Act.**
    - *12.1 Register*

- *As well as the register of members that the Corporations Act requires the company to keep, the Board must cause a register (**voting entitlements register**) to be kept of the number of votes allocated to each Group A member for the then current financial year.*
    - Under the Corporations Act you have voting rights when your name is entered into the members register.
- Senator Joyce reference – the legislation stands, the dairy farmers rights to have an automatic four year review of the levy payment was removed and allocated to DA allowing them to decide if a levy review was warranted.
- The dairy farmer loses approx 50% of their levy to employment costs – the employment costs include wages, salaries and associated benefits, it also has to include any and all associated costs such as office rental, motor vehicle rental, training costs and certifications. It stands that all costs that are spent on anything that does not generate a return for the farmer is a lost cost.
- The Australian Dairy Plan – by their own volition is the work of the four industry partners, ADF, DA, ADPF and the Gardiner Foundation. The target of 9.6 billion litres by 2025 did not come from the farmers.
- The fall in numbers of profitable farms – these figures are published in a document authorised by DA, at a meeting in Trang late 2020 these figures were debated at length with David Nation, if this document has misrepresented the figures then clarification should have been included. Their clarification that the fall in profitability of those monitored relates to the \$1.50/kg MS EBIT is damning indictment that they have failed.
- Group B members control the selection of the directors to the board – again by their own volition they confirm that the selection committee for board nominees is controlled by Group B members, they state: ***The current Board Selection Committee has one DA director (non-milk producer) plus 2 representatives from ADF and ADPF.***
- Rimfire Resources – already addressed, they played no part in the selection, just provide administration services.
- Robotic dairies – the purpose of r&d is for the benefit of the dairy farmers and the Australian public. In a failing industry how continued expenditure, that may or may not benefit less than 1% of farmers in Australia or about 2% of farmers in the world,

can be justified when DA has only just decided that profitability is now their main aim.

In response to the Additional Information submitted by the ADF.

- ADF did not hold DA to account – their comments cover a period of just one year 2015, we are now in 2021 and with the release of the ADP Profitability Paper, Appendix F the number of profitable farms is confirmed to have fallen. The Australian Dairy Plan identified that farm profitability as a priority in September 2020.
- ADF has lost the confidence of the dairy farmer – confirmed in the Independent Report 2016.
- A disconnect between dairy farmers and the UDV, ADF and DA – Kevin Ashworth did not say this allegation. The Constitution of the ADF excludes the membership of State Dairy Farming Organisations to just ONE body per state. Farmer Power is spokes person for TWO branches of the UDV. As Farmer Power represents the dairy farmers of Australia by default they are members of DA.
- ADF has a conflict of interest with the dairy processors – being funded by the dairy processor as their main source of income up until recently surely demonstrates a conflict of interest.
- It's not the job of the ADF to form an alliance with DA and the processors – the formation of an alliance as per the constitution of ADF would not, or should not, include a provision that would see a breach and creation of a conflict of interest by any means, by way of a financial arrangement that would be seen or could be seen as being detrimental in the purpose of the ADF as the advocacy body for the dairy farmers.
- Group B members control the selection of the DA board – confirmation by DA shown above.
- ADF need to be removed from Group B DA membership – the constitution of the ADF only recognises the membership from each state to just ONE organisation. Under the constitution of DA qualifications for Group B membership include, amongst others, that all peak representative organisations for the Australian dairy industry, or all peak representative organisations in that sector of the Australian dairy industry the body represents, are entitled to be members of, or affiliated with, the

body and a substantial proportion of the peak representative organisations for the Australian dairy industry, or a substantial proportion of the peak representative organisations in that sector of the Australian dairy industry the body represents, are members of or affiliated with the body. If the ADF does not change its constitution to recognise ALL representative organisations they no-longer qualify as Group B members.

- The \$11 million transfer from ADIC to ADF – there has to be a trust deed.
- ADF removed its financials from the charities register – Peter Hunts article The Weekly Times August 9 2017 '*Australian Dairy Farmers Limited's financial secrets*'

Kevin Ashworth