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Agriculture and Environment Committee

Parliament House

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## **SUBMISSION OF TABLELAND CANEGROWERS LTD ON THE SUGAR INDUSTRY (REAL CHOICE IN MARKETING) AMENDMENT BILL 2015**

### **Background Information on Tableland CANEGROWERS Ltd**

- Tableland CANEGROWERS Ltd represents 80 Growers and their families on the Atherton Tableland who currently supply sugar cane to two milling companies, Mackay Sugar Limited and the Mitr Phol owned MSF Sugar. These growers come from a background in other agricultural commodities such as tobacco, rice, maize, peanuts and dairy, some of which no longer exist today due to de-regulation and monopolistic foreign investment.
- There is no group of growers in the industry who feel more strongly about having the right to choose who markets their economic interest sugar than the Tableland growers. This was widely publicised and recognised back in 2013 when the announcement was made that the Tableland growers had signed a five (5) year cane supply agreement with Mackay Sugar to supply cane to the Mossman Mill some 100km away.
- The movement of cane, on mass from the Mitr Phol owned Tableland Mill to the Mackay Sugar owned Mossman Mill was a direct result of failed negotiations with the foreign owned miller over the growers' right to have their economic interest sugar marketed through Queensland Sugar Limited. It was not acceptable to the Tableland growers that their miller should dictate that they would also be the marketer when there is already an industry owned, transparent marketing body in place which is the envy of sugar industry players throughout the whole world.
- Whilst the first season of supply to Mossman Mill in 2014 proved to be a difficult one, with some 37,000T of cane left unharvested, the majority of the growers on the Tableland stand united in their original decision as they understand the importance of fighting for recognition of grower economic interest and real grower choice over who markets their economic interest sugar. Growers on the Tableland have lived through the demise of the tobacco, rice and dairy industries and have made this stand in an attempt to stop sugar cane from being added to that list.

### **Background to the Need for the Amendment Bill**

- When the sugar industry deregulated in 2006 all parties agreed that Queensland Sugar Limited (QSL) would remain the preferred marketer of sugar under voluntary marketing arrangements. This ensured that growers' interest in the marketing of sugar continued as joint-owners of QSL.
- Wilmar purchased Sucrogen with the full knowledge of the existing marketing arrangements and gave undertakings to the Foreign Investment Review Board and Growers that they would honour those arrangements.
- It did not take long for Wilmar to renege on their undertaking, by forcing QSL into a position where they allowed the Mills to take their economic interest sugar outside of QSL to market. Instead of

stopping there, Wilmar, MSF Sugar and COFCO have now gone one step further by giving notice to QSL and forcibly removing growers from their preferred marketing body QSL.

- These Mills are now exercising their cane processing monopoly powers and are denying growers' the right to choose who they wish to market and sell their 'Grower Economic Interest Sugar'.
- We have heard it said by the foreign owned milling companies that they are not going to have viable businesses unless they have control of the sugar and that they will have to exit the industry. The growing sector is equally unprofitable at current sugar prices. The only way for the mills to make money out of the sugar over and above what QSL is currently returning is to reduce the growers' slice of the pie. These foreign owner millers own their own refineries and facilities overseas where they are able trade and process Australian sugar without growers having any transparency in this process. This will of course be where the millers increase their slice of the pie at the expense of the growing sector.

### Questions for Comment on the Proposed Amendment Bill

1. whether the *Sugar Industry Act 1999* (current) adequately protects the interests of growers in collective sugar marketing arrangements

The current *Sugar Industry Act 1999* relies on the terms of a cane supply agreement to specify payment terms and marketing arrangements for growers. Whilst historically cane supply agreement negotiations have always been difficult, Growers had the comfort of knowing that the industry marketing body Queensland Sugar Limited, (QSL) would be the open and transparent mechanism by which their cane was marketed and priced. This all changed for growers on the Tablelands and across the rest of the industry in 2012 / 2013 with MSF Sugar, Wilmar and COFCO announcing that they would be giving notice to QSL and establishing their own marketing systems which growers would be forced to use. The Tableland growers were the first to enter into cane supply agreement negotiations post the announcement by MSF Sugar and they voted with their feet to protect their marketing rights and moved their cane away from the local MSF Sugar mill to Mackay Sugar who are still suppliers to QSL. Growers in other areas are in a position where their Mill has the monopoly as they have no alternative but to supply to the one milling company. An example of the failure of the current *Sugar Industry Act 1999* to protect the collective interest of growers is the failed cane supply agreement negotiations between COFCO and CANEGROWERS Tully in 2014 which resulted in growers being forced to enter into individual contracts with COFCO.

2. the costs, benefits and impacts on the Queensland sugar industry arising from decisions by some millers to exit the current sugar marketing arrangements (market outside of Queensland Sugar Limited (QSL))

The costs and impacts arising from MSF, Wilmar and CofCo exiting QSL include:

1. Reduction in tonnage through QSL which impacts on QSL's credit rating and borrowing facilities
2. QSL and Milling companies now competing against each other into the same markets for premium quality Australian sugar, resulting in erosion of premiums previously paid equally to growers and millers
3. Loss of transparency in ensuring that growers receive the correct price for their sugar
4. Risk of growers receiving cane payments – currently QSL funds the advances payment system to growers. This would now be up to cane supply agreement negotiations with the miller as to how and when cane payments will be received. An example is in 2010/11 when the Maryborough growers (who do not market or price through QSL) advance payments were withheld by MSF Sugar because their shipment of sugar was unable to leave Bundaberg port due to the port being silted up.

5. Threat of control of and access to sugar terminals if they do not remain in the hands of QSL
  6. Inability to manage sugar quality issues – when QSL had all of the sugar they were able to blend sugar to combat quality issues. This will no longer be the case and growers may end up receiving a reduced sugar price as a result.
3. whether provisions in the Bill are viable and will achieve their stated objective:
- a. supply contracts that give legal recognition to ‘grower economic interest’ sugar (GEI)
    - We are comfortable that 33B(2)(c) allows for ‘grower economic interest’ sugar (GEI) to be defined and apportioned in a cane supply agreement. The term ‘grower economic interest’ sugar however, is not defined in the dictionary 10(2). We would like to see GEI clearly defined in the dictionary to avoid any misinterpretation.
  - b. growers’ choice by nomination of marketing entities within supply contracts for GEI
    - We are comfortable that 33B(2)(d)&(e) allows for grower choice through the grower nominating the ‘GEI sugar marketing entity’
    - We are concerned that the proposed Bill does not go far enough in protecting growers who choose not to market their sugar through their miller. We would like to see the Bill amended to require mills not to discriminate against growers who choose not to market their GEI sugar through their miller
    - Our only other concern with growers’ choice is how we ensure the long term sustainability of a grower / industry owned GEI sugar marketing entity. It will be easy for the mills to entice growers into their marketing system with a couple of seasons of more attractive prices in a bid to knock the GEI sugar marketing entity out. In an ideal world it would seem pertinent that growers should nominate a minimum percentage of their GEI to that entity in order for that entity to have surety of a minimum tonnage to enable the best possible lines of credit etc. It is also critical that this entity controls the Sugar terminals.
  - c. arbitration of disputed terms in a supply contract, and
    - Whilst Section 33A allows for arbitration of disputed terms between a grower and a miller it does not specify the same for a growers bargaining agent. It is imperative that there is an addition to clause 33A granting the grower’s bargaining agent the right to arbitrate disputed terms of an intended supply agreement, given the bargaining agent is usually the one negotiating the terms of that agreement on behalf of the grower.
4. alternative ways to improve sugar marketing outcomes for growers and millers.
- With Wilmar Sugar, COFCO and MSF Sugars withdrawal from the long established Industry owned sugar marketer, QSL (Queensland Sugar Limited) and the subsequent lack of interest from any of these parties in coming to the table to resolve the impasse; it is evident that Government Intervention (in the form of The Sugar Industry (Real Choice Marketing) Amendment Bill 2015) is required if this industry is to survive and prosper.

Yours faithfully



Bronwyn Dwyer  
Manager, Tableland CANEGROWERS Ltd