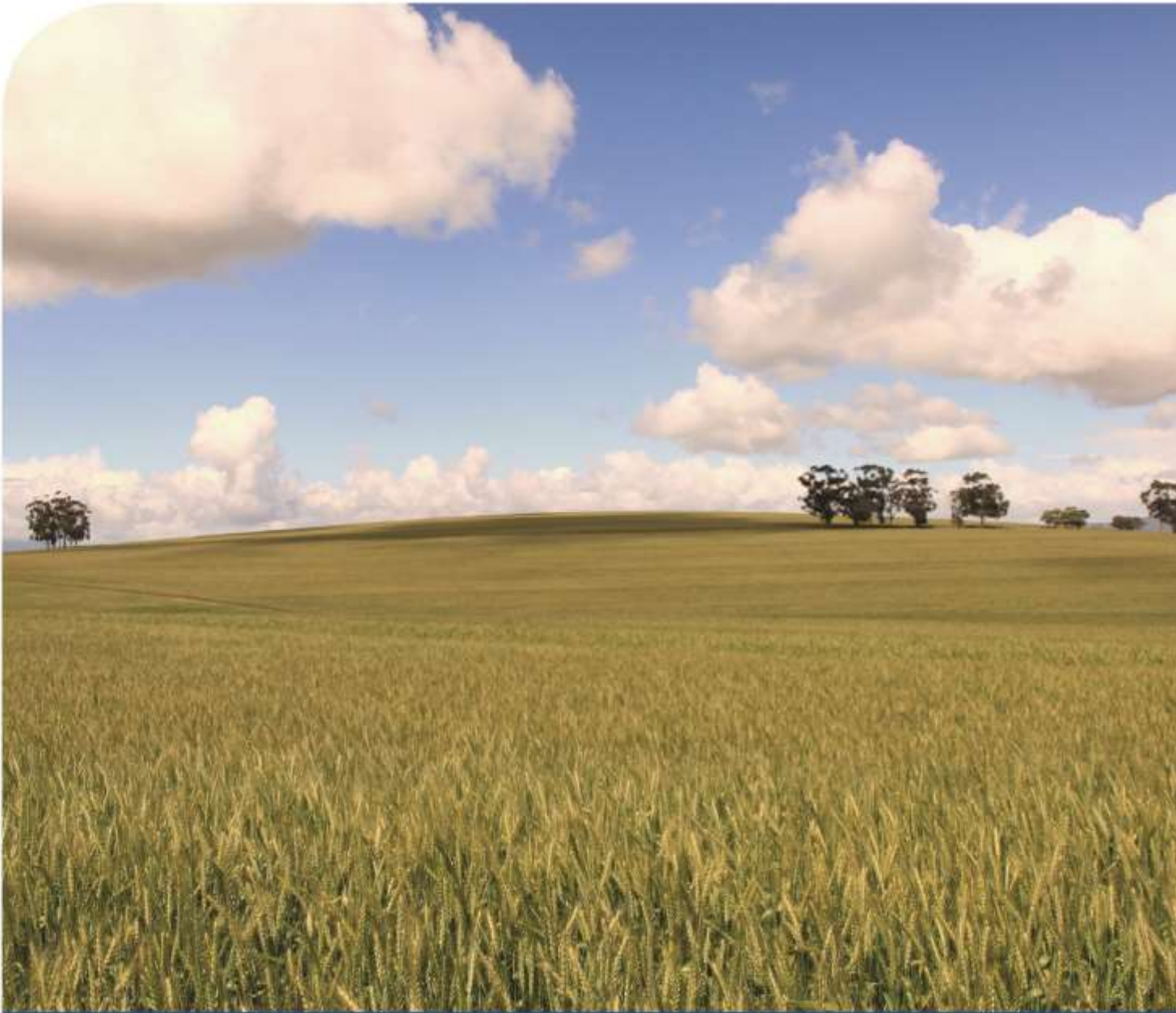




Western Cape
Government

Agriculture

BETTER TOGETHER.



Diagnostic Evaluation of the Impact of the Legislative Environment on the Agricultural Sector in the Western Cape

August 2015



DNA Economics



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DRAFT NOTICE

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LIST OF ACRONYMS

CARA	Conservation of Agricultural Resources Act (No 43 of 1983)
CCMA	Commission for Conciliation, Mediation, and Arbitration
DAFF	Department of Agriculture, Forestry and Fisheries
DEA	Department of Environmental Affairs
DoL	Department of Labour
DWS	Department of Water and Sanitation
EIA	Environmental Impact Assessment
ESTA	Extension of Security of Tenure Act (No. 62 of 1997)
EU	European Union
GAP	Good Agricultural Practices
MPO	Milk Producer Organization
MRLs	Maximum Residue Levels
OIE	World Organization for Animal Health
PPECB	Perishable Products Export Control Board
SADC	Southern African Development Corporation
SIZA	Sustainability Initiative of South Africa
UIF	Unemployment Insurance Fund
WC DoA	Western Cape Department of Agriculture

SUMMARY OF POLICY IMPLICATIONS

In 2014 the Western Cape Department of Agriculture (WC DoA) undertook an assessment of the needs of farmers in the Province. The assessment identified the legislative environment as a potential impediment to agricultural development. In response, a diagnostic evaluation was commissioned to understand the impact of the legislative environment on farmers in the Western Cape, and to propose ways that supportive impacts can be strengthened and negative impacts reduced.

The diagnostic evaluation highlighted the complex regulatory environment within which farmers operate in the Western Cape. A large number of rules, regulations and administrative processes that impact farming operations in the Western Cape were identified through an extensive literature review, expert interviews and 13 focus group discussions with farmers. This included both positive (where a component of the legislative environment that is missing, unclear or not being enforced which could support agriculture development) and negative (components of the legislative environment that are considered overly onerous or unhelpful - akin to the concept of 'red tape') issues. Interestingly, while a number of commodity-specific issues were raised, it was general issues that were most consistently singled out for further attention.

A total of 115 issues were raised at focus groups, 47 of which were prioritised by focus group participants. 71 recommendations were put forward to address priority issues based on input from stakeholders (via focus groups and expert interviews), literature, and the project team's experience. Recommendations were prioritised based on whether they're likely to generate results within two years, whether they related directly to a rule, regulation or regulatory process, and whether they were raised at more than one focus group. This led to the development of **a short list of 11 recommendations to be prioritised for implementation by the WC DoA**. The recommendations dealt with the housing burden created by the Extension of Security of Tenure Act, accessing water rights, the process to obtain environmental approvals, preferential procurement to facilitate market access for smallholder farmers, and restrictive labour legislation.

In addition, based on the experience of implementing this diagnostic evaluation, it is also **recommended that structures and processes are put in place by the WC DoA to ensure more frequent interaction with farmers on issues arising from the legislative environment**. In general, it was found that farmers were not accustomed to engaging directly with processes to address regulatory issues. Most farmers believed that the associations they belong to are communicating these issues to WC DoA and DAFF, and that consequently there was little need for them to participate in these processes.

While associations are active in addressing ad hoc issues, the diagnostic evaluation found much less evidence of a systematic approach to addressing specific issues by farmers associations than expected. Stakeholders mentioned that these issues are typically raised directly with relevant public sector officials, but the results from these interactions are therefore limited to those directly involved. This was confirmed by the literature review. While a large number of issues were identified, issues were mostly mentioned in passing without a detailed analysis of their causes, impacts or possible solutions. Despite the large number of regulatory and legal issues identified in the literature, very few recommendations for addressing these were put forward.

EXECUTIVE SUMMARY

Introduction

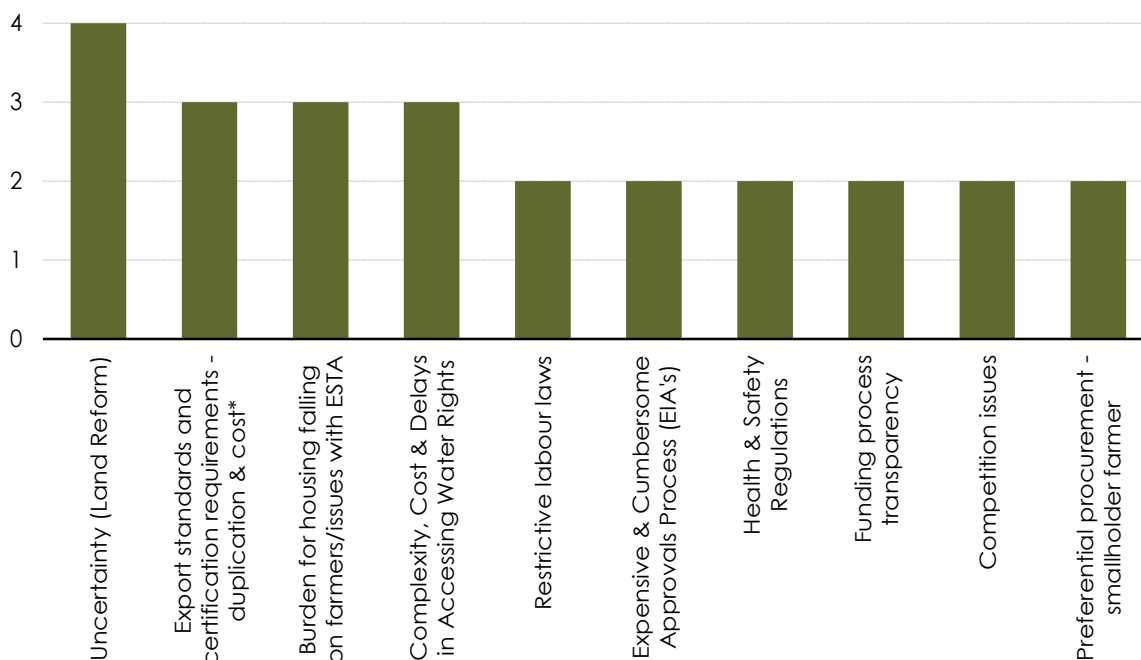
In 2014 the Western Cape Department of Agriculture (WC DoA) undertook an assessment of the needs of farmers in the Province. The assessment identified the legislative environment as a potential impediment to agricultural development. In response, this diagnostic evaluation was commissioned to understand the impact of the legislative environment on farmers in the Western Cape. The evaluation adopted a farmer-centric approach with farmer focus groups being the primary research instrument. Issues identified were grouped into commodity-specific and general issues to highlight the nature of the problems faced by farmers.

To identify issues of critical importance, farmers were asked to prioritise specific issues to be singled out for attention by the WC DoA. In preparation for the focus groups, a focused literature review was conducted to identify elements of the legislative environment that are likely to affect farmers and associated agricultural sector industries in the Western Cape. In order to validate the scope and findings of the literature review, targeted consultations were held with government officials, commodity associations, industry experts and individual farmers.

Summary of results

A total of 115 unique issues were identified across 13 focus groups, and these issues were mentioned a total of 169 times during the focus groups. Of these 115 issues, only 23 issues were mentioned in more than one focus group despite the fact that 85 issues identified by respondents were believed to be applicable to more than one agricultural commodity (these options were classified as 'general issues').

Figure 1 Number of focus groups at which top 10 prioritised issues was raised



Note: 13 focus groups were held

*This issue was raised twice at one focus group pertaining to two different types of inspections.

A total of 47 issues were prioritised for action at the focus groups. Of these 47 issues, only 10 issues were raised at more than one workshop. Again, this is surprising since only 14 of the 47 issues

prioritised were believed to pertain only to a specific commodity (these issues were classified as 'commodity-specific' issues). Commodity-specific priority issues were identified at the Emerging Farmers (Equity), Emerging Farmers (Non-Equity), Game, Ostrich, Poultry, Red Meat, Viticulture and Winter Cereals focus groups.

Sixteen of the 47 priority issues were identified by focus group participants as particularly problematic for emerging farmers. Most of these relate to market access and funding for emerging farmers, but issues related to access to agricultural land, the cost of obtaining environmental approvals, and extension services also featured prominently.

Prioritisation of recommendations

A total of 71 recommendations were generated to address the 47 priority issues. These were identified by drawing on suggestions put forward at the focus groups and during interviews, relevant literature, and the experience of the project team members. In order to prioritise interventions, three criteria were used to filter recommendations:

- **Short-term filter:** *Is the recommendation likely to yield results within two years?*
- **Legislative filter:** *Is the recommendation directly related to a rule, regulation or administrative process?*
- **Significance filter:** *Is the recommendation linked to an issue that was raised at more than one focus group?*

The application of the three filters yielded a short-list of 11 recommendations linked to five issues.

Recommendations

Burden for housing falling on Farmers/issues with ESTA

- It is recommended that the WC DoA undertake further research to consider this issue in detail. Based on the outcome of this analysis, there may be a facilitation role for the WC DoA to bring affected and interested parties (farmers, farm workers, local, provincial and national department and entities, etc.) together in a forum where the issues and proposed solutions can be jointly considered. As the culmination of this process, the WC DoA should issue guidance on its preferred approach to dealing with this issue in a way that balances the concerns of relevant local stakeholders.

Complexity, Cost & Delays in Accessing Water Rights

- Create a leaflet outlining current attempts by the Department of Water and Sanitation and other stakeholders to confirm existing water rights. It should be clear to farmers who they need to interact with to participate in this process.
- Undertake a study to evaluate the current administration of water rights in the Western Cape, with a focus on the ease with which water rights can be transferred or leased. This study could then serve as the basis to consider further interventions to influence these processes should it be deemed necessary.

Expensive & Cumbersome Approval Process (EIA)

- The WC DoA should engage with the Department of Environmental Affairs to determine whether applications under the Conservation of Agricultural Resources Act is sufficiently aligned with the "One Environmental System" to allow for greater synergy in the application processes for environmental approvals.

- The WC DoA should disseminate information about farmers' options regarding application and licensing processes (including, for example, class EIA applications where a number of farmers in a region can apply for authorisation through one EIA process).

Preferential procurement - smallholder farmers

- Ways to make it easier to include these farmers in public sector contracts using existing public sector preferential procurement frameworks should be considered and the WC DoA should issue guidance on what it considers to be best-practice in this regard.
- It is recommended that the WC DoA maintains a list of all the farmers supported through its programmes, including those it manages/implements on behalf of DAFF and/or other government departments. This database could be held at municipal and/or district level and serve as easy source of information for commercial farmers that are looking for empowerment partners. The WC DoA should assess to what extent this recommendation links to the initiatives of the Agro-hub model so as to avoid any duplication in effort.
- The B-BBEE Codes of Good Practice (2013) should be considered and guidance provided to smallholder farmers on how they can benefit from the new Codes.

Restrictive labour legislation

- It is recommended that the WC DoA considers an awareness campaign to make farmers aware of the online platforms that are available from the Department of Labour (DoL).
- The WC DoA should engage the Department of Labour and other organizations that undertake labour audits (e.g. SIZA) to align audits to reduce disruption to farm activities.
- The WC DoA should consider the relative merits of supporting the development of farm-services firms that can employ workers directly on a permanent basis to provide seasonal labour to farmers when required.

Conclusion

This diagnostic evaluation highlighted the complex regulatory environment within which farmers operate in the Western Cape. A large number of rules, regulations and administrative processes that impact farming operations in the Western Cape were identified. This included both positive (where a component of the legislative environment that is missing, unclear or not being enforced which could support agriculture development) and negative (components of the legislative environment that are considered overly onerous or unhelpful - akin to the concept of 'red tape') issues. 71 recommendations were put forward to address 47 priority issues based on input from stakeholders (via focus groups and expert interviews), literature, and the project team's experience. These were prioritised to develop of **a short list of 11 recommendations to be prioritised for implementation by the WC DoA.**

In addition, based on the experience of implementing this diagnostic evaluation, it is also **recommended that structures and processes are put in place by the WC DoA to ensure more frequent interaction with farmers on issues arising from the legislative environment.** In general, it was found that farmers were not accustomed to engaging directly with processes to address regulatory issues. While associations are actively addressing ad hoc issues, the diagnostic evaluation found little evidence of a systematic approach to addressing legislative issues. This was confirmed by the literature review – which identified a large number of issues, most of which were mentioned in passing without a detailed analysis of their causes, impacts or possible solutions.

1 INTRODUCTION

In 2014 the Western Cape Department of Agriculture (WC DoA) undertook an assessment of the needs of farmers in the Province¹. The assessment identified the legislative environment as a potential impediment to agricultural development. In response, a diagnostic evaluation was commissioned to understand the impact of the legislative environment on farmers in the Western Cape, and to propose ways that supportive impacts can be strengthened and negative impacts reduced.

The report begins with a short description of the evaluation questions, followed by a brief overview of the methodology and approach. Section 3 presents the key issues within the legislative environment arising from the each of the commodity focus group discussions, and recommends how they can be addressed. Section 4 highlights a number of general issues within the legislative environment that are expected to impact on more than one commodity grouping, and again, recommendations are put forward as to how these issues could be addressed. The final section of the report provides a number of general conclusions that emerge from the diagnostic evaluation, and proposes how the legislative environment pertaining to agriculture in the Western Cape can be strengthened.

2 EVALUATION QUESTIONS

This design evaluation focused on the following three questions:

Evaluation Question 1: What is the spectrum of policy, legislative and administrative factors faced by farmers and associated industries involved in the different sectors of food production in the Western Cape?

Summary answer: Farmers in the Western Cape Province operate within a complex regulatory environment facing a wide range of legislative and administrative issues. The diagnostic evaluation identified 115 issues raised by farmers as impacting significantly on their ability to farm. 85 of these were general issues that affects more than one commodity grouping, while 30 issues were commodity specific. 47 issues were prioritised for the attention of the WC DoA by participants at focus groups (33 general issues and 14 commodity-specific issues).

Evaluation Question 2: To what extent is the current policy regime and legislation impacting on the long-term sustainability of farming?

Summary answer: The consistent message from farmers throughout the implementation of the diagnostic evaluation was that farmers feel overwhelmed by the sheer number of issues within the legislative environment that they need to deal with, and that this is making farming less attractive and less prosperous. Farmers believed that the impact of the legislative environment on farming was becoming more negative over time, and that this was preventing them from investing in and expanding their operations.

¹ DB Louw, 2014. A diagnostic and design evaluation of the service needs of different farmer categories. Study undertaken on behalf of the WC DoA.

While the impact of the legislative environment is acutely felt, farmers are not used to quantifying it – and this is preventing the seriousness of these issues from being effectively communicated to policymakers.

Evaluation Question 3: What steps can be taken to minimise the negative impacts and maximise the positive aspects of the various components of policy/legislation?

Summary answer: A total of 71 recommendations were generated to address the 47 priority issues identified. A short-list of 11 actionable recommendations was developed to guide implementation by the WC DoA. These recommendations relate directly to rules, regulations or administrative processes; are expected to yield results within two years; and address five issues prioritised for action at two or more focus groups.

Based on the experience of implementing this diagnostic evaluation, it is also recommended that structures and processes are put in place by the WC DoA to ensure more frequent interaction with farmers on issues affecting the legislative environment.

A database of recommendations was created that can assist the WC DoA to develop additional interventions to support any ongoing regulatory reform processes developed.

3 OVERVIEW OF APPROACH AND METHODOLOGY

A farmer-centric approach was adopted with farmer focus groups being the primary research instrument. Other value chain activities beyond farming, however, were considered to the extent that they directly impact the farmer. With the assistance of the Project Reference Committee, commodities with similar characteristics were grouped together in focus groups, with participants in these industries likely to face similar issues. Issues identified were grouped into commodity-specific and general issues to highlight the nature of the problems faced by different types of farmers.

In preparation for the focus groups, a focused literature review was conducted, to identify elements of the legislative environment that are likely to affect farmers and associated agricultural sector industries in the Western Cape. In order to validate the scope and findings of the literature review, targeted consultations were held with government officials, commodity associations, industry experts and individual farmers. See Appendix for the literature review and a list of stakeholders consulted.

For the purpose of this study, the legislative environment was explained to farmers as any activity that: causes additional administration for farmers; draws scarce management attention and time; adds cost to a farming business; slows or stops investment in or expansion of a farm; and delays or stops farmers taking required business actions. This was referred to as “rules and regulations”, and defined to include, but not be limited to:

- All enacted national, provincial and municipal acts, policies and regulations applicable to primary agriculture.
- The trade and phyto-sanitary regulations required by South Africa's international trading partners.
- The compulsory and voluntary labelling and/or standards and/or compliance-schemes imposed or requested by specific markets, retailers or consumer groups.

- Any other requirements demanded by other "interest groups" such as lobby groups, NGO's etc. that add to the administrative burden faced by farmers.
- Policy proposals that have been officially released for discussion by the entities responsible for administering the issues raised above, and that have the potential to create policy uncertainty.

Furthermore, within the universe of 'rules and regulations', the emphasis was on issues that require farmers to deploy resources (either time or financial) to address them. The study therefore focuses on identifying opportunities to support the development of agriculture in the Western Cape by influencing the legislative environment. This includes addressing both negative factors (components of the legislative environment that is considered overly onerous or unhelpful - akin to the concept of 'red tape') to reduce the administrative burden placed on farmers by the legislative environment as defined above, and supporting the development of positive legislative elements (components of the legislative environment that could support agriculture development but is currently missing, unclear or not being enforced). During the focus groups positive factors were emphasised by asking participants to think about rules or regulations that if they were put in place, or enforced, would make it easier or less costly for them to farm.

To identify issues of critical importance, farmers were initially requested to provide quantitative indicators to illustrate the impact that rules and regulations had on their activities. In practice, however, it proved exceedingly difficult to obtain quantitative indicators; and a more qualitative approach was adopted based on farmers prioritising issues for further attention during the focus groups. This led to a much larger number of priority issues being identified than had been envisaged at the start of the diagnostic evaluation. It follows that the results provide for a wide range of high-level recommendations, rather than an in-depth analysis of any particular set of issues.

In order to develop an actionable list of recommendations, a methodology to prioritise recommendations was developed and deployed. The outcome of this exercise is shown in Section 5. A full list of all the recommendations developed is included in the Appendix, together with a mapping of the relevant component of the legislative environment related to each prioritised issue.

A number of tools were developed to guide the implementation of the focus groups and broader stakeholder engagements (see Appendix), and these tools were refined and updated as the diagnostic evaluation was undertaken (partly in relation to the issues raised above).

4 ISSUES WITHIN LEGISLATIVE ENVIRONMENT

4.1 Overview of issues identified

As indicated above, the primary research method used in this evaluation was a series of focus groups with farmers (supplemented by an extensive literature review and expert interviews); and these focus groups served to identify the main issues confronting farmers in general, and within each commodity group.

A total of 115 unique issues² were identified across 13 focus groups, and these issues were mentioned a total number of 169 times during the focus groups. Of these 115 issues, only 23 issues were mentioned in more than one focus group. This is surprising since 85 of the issues identified by respondents were believed to be applicable to more than one agricultural commodity (these options were classified as 'general issues'). Issues identified were characterised into 21 themes, with a catch-all *Legislation-General* theme being used to capture issues that could not easily be grouped within other themes.

The themes that were raised most often at focus groups were Labour (comprising 12 issues raised a total of 28 times), Market Access (17 issues raised 24 times) and Land Reform (four issues raised 11 times).³ These three themes were also most often prioritised for action⁴ at focus groups, while Market Access (covering nine issues mentioned 14 times at focus groups) was also a popular theme. Six issues falling under the Labour theme were raised 10 times, and three issues related to Land Reform were raised 6 times). These were also the top three themes raised in general, although Labour issues were mentioned more often than Market Access.

Issues were grouped by theme to provide additional information that can be used to prioritise interventions for future consideration. The methodology used to prioritise interventions in this diagnostic evaluation (outlined in Section 5), however, focussed directly on the issues raised and did not consider the themes under which the issues are characterised.

² A total of 113 unique codings were assigned, but in two cases issues received the same coding despite referring to slightly different concerns. An example of this is where different export audits were identified as problematic. The two focus groups where a single coding referred to two different issues were the Top Fruit and Table Grapes focus groups.

³ Issues belonging to the theme *Legislation – General* were raised 15 times, but since this is a catch-all category it is not included in the Top 3.

⁴ A long list of issues related to the legislative environment that is believed to have an impact on the farmers' operations were identified using a modified Crawford Slip Approach. After suggestions were collated and grouped into distinct issues, farmers were asked to consider which of the issues identified have the largest impact on their day-to-day operations, and to use this information to identify the four or five issues that they want to see addressed most urgently.

Table 1 Top 3 Themes prioritised for action during focus groups

Themes and underlying issues	ALT	EFNE	EFE	GAME	OST	POT	POU	RM	R & C	TG	TF	VIT	WC	Grand Total
Theme: Market Access		3	1			1	2	1	2	2	1		1	14
Export standards and certification requirements - duplication & cost									1	2*	1			4
Competition issues							1						1	2
Preferential procurement - smallholder farmer			1				1							2
Distance to market and transport costs.		1												1
Retailer packaging requirements		1												1
Unfair pricing of emerging farmer produce, especially livestock		1												1
Non-compliance with OIE Regulations								1						1
Trade restrictions in SADC region						1								1
Inconsistencies in Food Safety standards & MRL's.									1					1
Theme: Labour	2					1			1	2		1	3	10
Burden for housing falling on farmers/issues with ESTA									1	1			1	3
Restrictive labour legislation	1												1	2
Health & Safety Regulations										1			1	2
Minimum Wage												1		1
Labour classification/Brokers not-allowed.	1													1
Lack of public transport						1								1
Theme: Land Reform	1	1			1	1					1	1		6
Uncertainty (Land Reform)	1				1	1					1			4
Access to land		1												1
Vetting of partners to emerging farmers												1		1

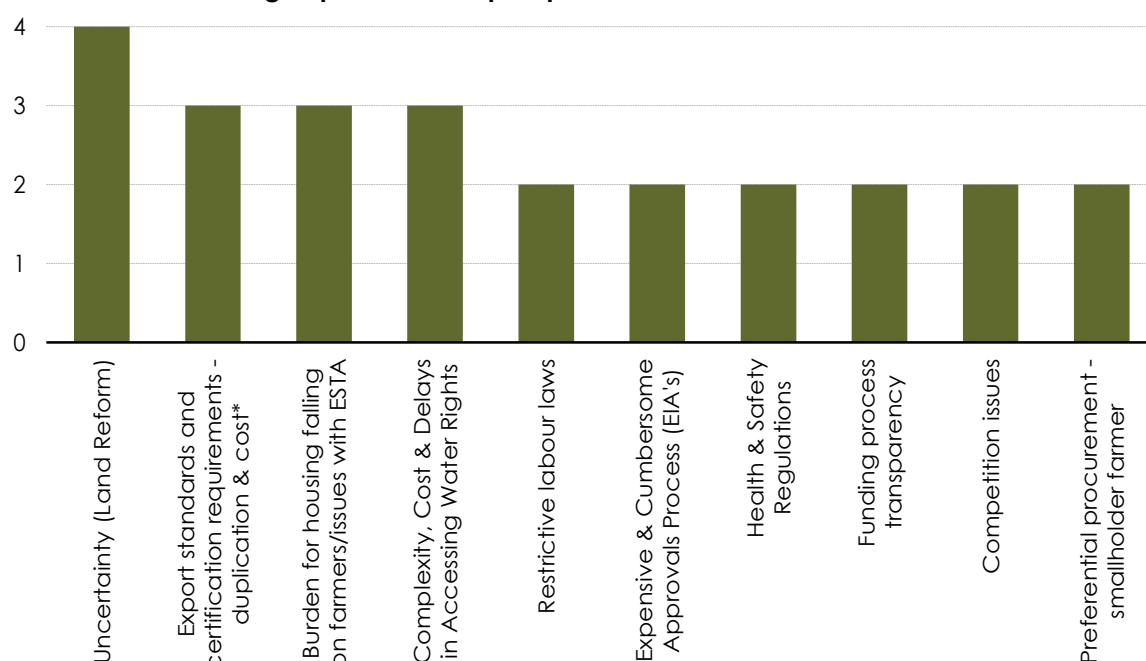
Focus Groups: ALT = Alternative Industries, EFNE=Emerging Farmer Non-equity, EFE=Emerging Farmers Equity, GAME=Game, OST=Ostrich, POT=Potato, POU=Poultry, RM=Red Meat, R & C=Rooibos (& Citrus), TG=Table Grapes, TF =Top Fruit, VIT=Viticulture, WC=Winter Cereals [None of the issues underlying the Top 3 Themes were identified during the Game focus group.

* Note: Two issues that received the same coding were raised at the focus group. See Appendix for details.

A total of 47 issues were prioritised for action at the focus groups. Of these 47 issues, only 10 issues were raised at more than one workshop. Again, this is surprising since only 14 of the 47 issues prioritised were believed to pertain only to a specific commodity (these issues were classified as 'commodity-specific' issues). Commodity-specific priority issues were identified at the Emerging Farmers (Equity), Emerging Farmers (Non-Equity), Game, Ostrich, Poultry, Red Meat, Viticulture and Winter Cereals focus groups.

Only the top four prioritised issues were raised more than twice, these were uncertainty related to land reform (raised four times), the impact of export standards and certification requirements on market access (raised four times, but twice at the same focus group relating to different requirements), the burden of providing housing to farm workers under the Extension of Security of Tenure Act (raised three times) and the process to obtain and register water rights (also mentioned three times).

Figure 2 Number of focus groups at which top 10 prioritised issues was raised

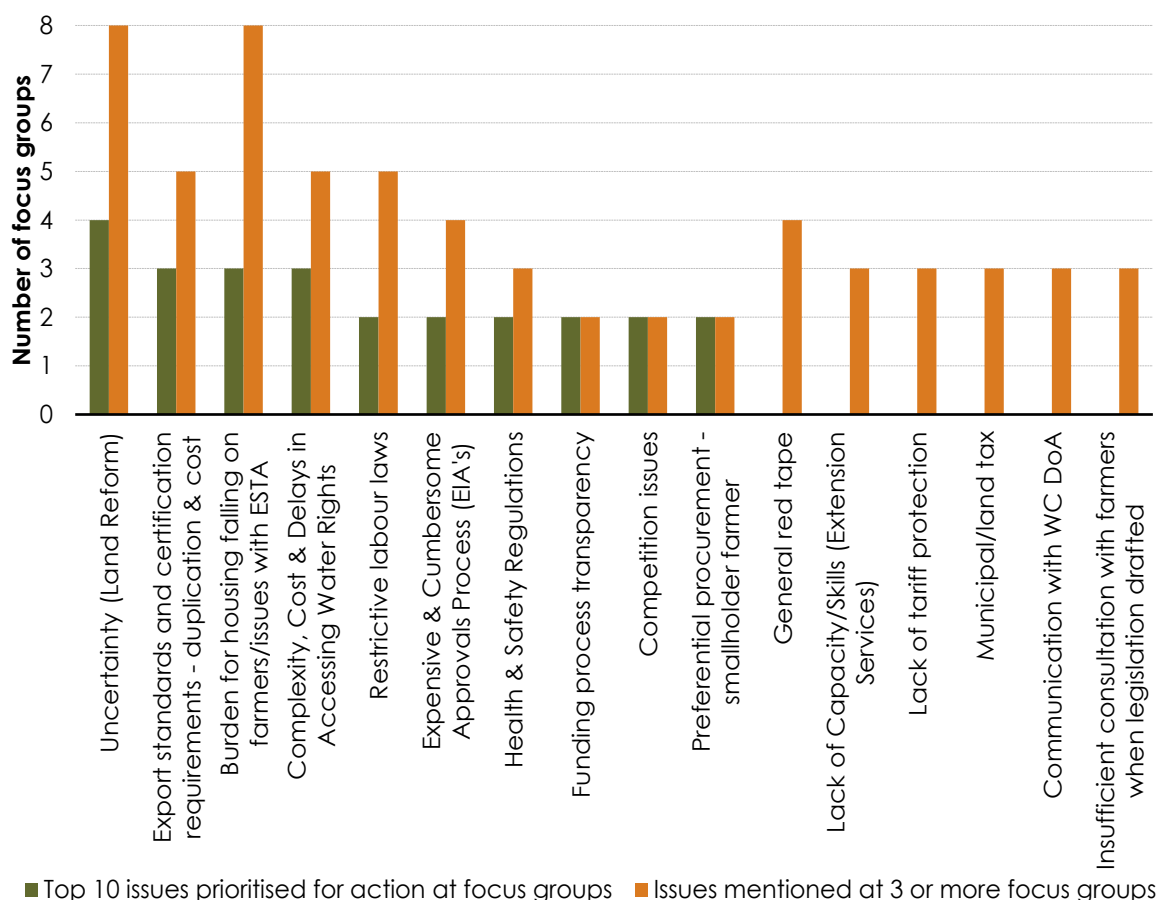


Note: 13 focus groups were held

* This issue was raised twice at one focus group pertaining to two different types of inspections.

Figure 3 shows the top 10 issues prioritised for action relative to the issues that were raised at three or more focus groups (irrespective of whether they were prioritised for action). The figure shows that the five issues that were raised most often at focus groups were also the five issues that were prioritised for action at focus groups most often.

Figure 3 Top 10 issues prioritised for action relative to most popular issues overall



Of the 47 priority issues that we identified, 16 were identified by focus group participants as particularly problematic for emerging farmers. These issues, and the themes under which they fall, are shown in Table 2. Most of these relate to market access and funding, but issues related to access to agricultural land, the cost of obtaining environmental approvals, and extension services also featured prominently.

The issues prioritised for action at the various focus groups are highlighted by commodity and farmer grouping in the remainder of this section. For a complete list of all the issues identified during the different focus groups, and how these issues were described by focus group participants, please see the Focus Group Report Section in the Appendix.

Table 2 Themes and issues of particular importance to emerging farmers

Themes and underlying issues	ALT	EFNE	EFE	POU	VIT	Total
Market Access						6
Competition issues				1		1
Preferential procurement - smallholder farmer			1	1		2
Distance to market and transport costs.		1				1
Retailer packaging requirements		1				1
Unfair pricing of emerging farmer produce, especially livestock		1				1
Funding						4
Funding process transparency		1	1			2
Application process		1				1
Delays in the approved funding			1			1
Land Reform						2
Access to land		1				1
Vetting of partners to emerging farmers					1	1
Land-Use Change/Development						2
Expensive & Cumbersome Approvals Process (EIA's)					1	1
EIA threshold				1		1
Extension Services						2
Lack of Capacity/Skills					1	1
Lack of training and support for emerging farmers		1				1
Health/food safety standards		1			1	1
Meat inspectorate rules			1			1
Water						1
Complexity, Cost & Delays in Accessing Water Rights	1					

Focus Groups: ALT = Alternative Industries, EFNE=Emerging Farmer Non-equity, GAM=Game, EFE=Emerging Farmers Equity, OST=Ostrich, POT=Potato, POU=Poultry, RM=Red Meat, R & C=Rooibos (& Citrus), TG=Table Grapes, TF =Top Fruit, VIT=Viticulture, WC=Winter Cereals

4.2 Poultry

All the participants at this focus group were emerging poultry farmers. Issues around the need for environmental impact assessments (EIAs) came out strongly in the focus group discussion. The participants believed that the current thresholds at which costly and complicated EIAs are required limit their profitability and prevent them from expanding. Input received via an interview with the South African Poultry Association highlighted that concerns around EIAs extend to all farmers across the poultry value chain and are not limited to emerging farmers. The EIA process was the only issue identified in the literature that was raised at the focus group.⁵

Market access issues were also emphasised at the focus group, both applying to emerging farmers in general and related to the poultry market in particular.

⁵ The other three priority themes identified during the literature review were municipal by-laws and health inspections, product labelling schemes related to quality, labelling, and brining, and accessing veterinary services.

Table 3 Priority issues identified –Poultry focus group

Theme	Issue	Reported Impact	Scope
Land-Use Change/Development	EIA threshold	Constrains expansion EIAs are costly and time-consuming	Commodity specific
Market Access	Preferential procurement - smallholder farmer	Limited access to markets Reduced profits	General
Market Access	Competition issues	Limited supply of inputs during peak season. Competitors are able to influence market dynamics	Commodity specific

4.3 Winter cereals

A number of wide encompassing burdens were identified and discussed by participants during the focus group. These were coded according to issue and theme to enable a comparative analysis across the different commodities.

Issues identified were a mix of cross-cutting issues and commodity-specific issues, with five general and three commodity-specific issues being prioritised for action. Two of the issues prioritised were identified during the literature review, namely a lack of grain-specific research and tariffs.⁶

Issues raised by farmers that were not present at the focus group that did not make the prioritised shortlist include uncertainty due to land reform and deteriorating infrastructure.

4.4 Alternative Industries

Despite a large number of issues being identified at the Alternative Industries focus group (21 in total), only one of these issues was commodity-specific (namely the additional requirements related to the farming and harvesting of indigenous species like Honeybush under the: National Environmental Management: Biodiversity Act (No. 10 of 2004)). Only general issues were prioritised for action at the Alternative Industries focus group.

Table 4 Priority issues identified - Winter Cereals

Theme	Issue	Reported Impact	Scope
Labour	Restrictive labour laws	Fewer contract workers are employed, and they are employed for shorter periods than was the norm in the industry.	General issue
Labour	Health & Safety Regulations	Compliance costs are higher than necessary. And it is difficult to comply with regulations.	General issue
Labour	Burden for housing falling on farmers/issues with ESTA	Fewer workers are housed on the farm, which impacts activities like fire management. Transport costs increase the cost of labour, which drives greater mechanisation.	General issue
Market protection	Lack of countervailing tariffs	Meat prices volatility. Prices fall when imports increase. This leads to fewer ewes being produced, which means prices increase fast when imports fall. Import competition led to price increases that are below	Commodity-specific

⁶ The winter cereals literature review also identified issues linked to climate change and emerging farmers as potentially significant themes.

		inflation (last year or so -18% cost increase vs 7% increase in price) - which in turn leads to a reduction in wheat output	
Research , Development & Training	Grain-specific research	Farming techniques and methods are proposed that are not customised to Western Cape conditions. Yields are not maximised.	Commodity-specific
Market Access	Competition issues	Lower prices for wheat/grain leads to lower production volumes.	Commodity-specific
Extension Services	Focus of extension services	Value of extension services to commercial farmers significantly diminished. Productivity gains driven by public sector extension support no longer forthcoming.	General issue
Research & Development & Training	Quality of tertiary education	Difficult to find suitable candidates for senior positions like farm manager or farm-level manager.	General issue

Table 5 Priority issues identified - Alternative Industries focus group

Theme	Issue	Reported Impact	Scope
Labour	Restrictive labour laws	Increased human resources costs (including cases at CCMA) and labour costs (cannot dismiss unproductive workers)	General issue
Labour	Labour classification/Brokers not-allowed.	Labour audits disrupt operations Difficult to accommodate seasonal labour and increases labour costs when workers become permanent for a short period of time – so temporary employment is curtailed.	General issue
Water	Complexity, Cost & Delays in Accessing Water Rights	Lack of access to water inhibits expansion of agricultural land Trying to secure water rights places administrative burden on farmers 'Use it or lose it provision' prevents future expansion since water rights cannot be recovered.	General issue
Land Reform	Uncertainty (Land Reform)	Preventing investment in empowerment deals (since rules may change) Preventing new agriculture investment since property rights are not viewed as secure.	General issue

In an interview with representatives of a large multi-commodity fruit exporter (that also exports pomegranates), the issue of the delays in registration of chemicals and the need to secure special dispensation for the use of non-registered chemicals for use on new crops was highlighted. Without registered product or the required dispensations farmers cannot apply the required treatments and face crop losses, or spray unregistered chemicals and then cannot secure the necessary Global GAP certification required for export. Issues related to the need for faster registration of chemical treatments was identified during the literature review for all the new commodities reviewed other than olives.

4.5 Red meat (Beef and sheep)

Participants at the Red Meat Focus Group identified fifteen issues of which five were prioritised for further analysis. The details of the five prioritised issues are presented in Table 6. Two issues are cross-cutting, while three issues are commodity-specific. One of the general issues raised (EIAs) was also highlighted during the literature review, while a second theme identified during the literature review (issues linked to intensive “factory farming” livestock production systems) was not linked to any of the prioritised issues emanating from the focus group.

An interview with a large feedlot owner indicated that environmental impact assessments and the associated conditions of authorisation is leading to such high costs that it makes it impossible for them to grow their business. A second interview with a feedlot owner indicated that the cost of labour forces them to mechanize their business.

Table 6 Priority issues identified - Red Meat focus group

Theme	Issue	Reported Impact	Scope
Land-use change/ Development	Expensive & Cumbersome Approvals Process (EIAs)	Farms face significant time-consuming and costly processes and time delays in meeting the regulatory requirements and securing the necessary approvals for new development/expansion of their business activities	General
Animal health and Welfare	Problem animal control legislation	Problem animals, including feral dogs are becoming increasingly difficult to control and the financial cost of stock-losses is increasing	Commodity-specific
Animal health & Welfare	Ineffective in controlling movement of diseased animals	Ineffective control of diseases within the country (an example of this is control of Ovine Johne's Disease)	Commodity-specific
Market Access	Non-compliance with OIE Regulations	Access to key markets blocked while the local market remains open to cheap imports.	Commodity-specific
Taxation	Municipal/land-tax	Municipal levies amount to a direct financial cost to farmers - which is perceived as a punitive tax because the levies are not linked to any municipal service-delivery to farms.	General

Note: For description of the issue as provided during the focus group, please see Appendix.

4.6 Ostrich

Ten issues were raised at the Ostrich focus group discussion. Only two of the ten issues raised were commodity specific. General issues included concerns around increases in administered prices, the uncertainty around land reform, restrictive labour laws and low labour productivity amongst others. Commodity specific issues included concerns around water availability and infrastructure, and arbitrary rules for market access. The full list of issues is available in the focus group report.

The commodity-specific issue prioritised (Water infrastructure) falls under the broader theme of access to water – which was highlighted as a potential area of contention during the literature review.

Table 7 Priority issues identified - Ostrich focus group

Theme	Issue	Reported Impact	Scope
Water	Water infrastructure	Not able to diversify by planting cash crops or perennial crops due to lack of water Land is not utilised to full potential Output is reduced	Commodity-specific
Input costs	Administered pricing (Water and electricity prices)	Increased input costs threaten profitability (particularly since more energy-intensive farming practices are used to compensate for lack of water) Negative impact on planning and expansion	General
DAFF	Communication with DAFF	Large source of uncertainty – cannot estimate value of output due to price fluctuations linked to ability to export	General

		Export opportunities are not exploited Domestic prices depressed due to local oversupply	
Land reform	Land reform uncertainty	Uncertainty regarding value of land Uncertainty reduces investment and expansion	General

4.7 Dairy

The project team liaised with the Western Cape Milk Producer Organization to organize a dairy focus group. Initially, a focus group was scheduled for 14 May 2015 at Elsenburg. However invited participants were not able to attend. Another focus group was organized for 20 May 2015 at George, again through the Western Cape MPO. Invitations were sent through the MPO and three confirmations were received. The focus group was organized to coincide with the Ostrich focus group held at Oudtshoorn. However, the MPO indicated on the day before that the participants would no longer be available. Through the Reference Committee, a dairy study group around Elsenburg was contacted to arrange a focus group for 10 June 2015. Unfortunately none of the members of the study group were able to attend.

It was thus not possible to arrange a dairy focus group. Inputs were, however, received from one dairy farmer.⁷ The following issues were raised by the farmer:

- Significant time and effort is spent on the paperwork of casual workers - especially for the purpose of UIF. For example, if a person has only worked a few days in a month, the farmer is required to register him/her for UIF and give him/her a casual contract. However, this seems inefficient as employees can only claim UIF if they work for 24 hours or more a month.
- It entails significant paper work to claim back a portion of Skills Development Levy. A large percentage of the claimed money goes to agents who farmers employ to do most of the paperwork. The view was also expressed that farmers do no benefit sufficiently from the Skills Development Levy.

Given that no dairy focus group was held, these claims were not interrogated or included in further analysis.

4.8 Potatoes, Onions and Tomatoes

Potato, onion and tomato farmers are likely to be faced with similar issues, and therefore the three commodity groups were combined into one workshop. For the focus group workshop, only two farmers attended, both of whom farm potatoes and a mix of onions and other vegetables; neither farm tomatoes. The priority issues identified in the workshop are presented in Table 8.

Five themes were prioritised through the literature review process. Relevant issues that were raised during the focus group and pertained to the themes emanating from the literature review were trade restrictions and the management of water resources. Only the issue of trade restrictions was identified as a priority issue in the focus group.

In an interview with a leading potato farmer five issues were highlighted, namely: cost and time taken to complete an EIA, uncertainty around the allocation of water rights, frustration around the

⁷ One of the farmers that participated in the Winter Cereals focus group was also a dairy farmer.

Extension of Security of Tenure Act, costly implementation of the Product Standards Act and market access issues related to empowerment status.

Table 8 Priority issues identified - Potato, Onion and Tomato focus group

Theme	Issue	Reported Impact	Scope
Health/food safety standards	Traceability Requirement (Consumer Protection Act)	This does not allow the consumer to differentiate or for the farmer to develop their own market.	General
Land Reform	Uncertainty	The inherent uncertainty and political and emotional pressure of the land reform process is hampering investment.	General
Labour	Lack of public transport	The lack of public transport hinders farm worker upliftment and hampers their productivity on the farm.	General
Infrastructure and logistics	Cannot sell renewable energy to grid	This does not incentivise a shift towards renewable energy generation, decreasing supply uncertainties.	General
Market Access	Trade restrictions in SADC region	This hinders farmers' ability to export to SADC countries.	General

Note: For description of the issue as provided during the focus group, please see Appendix.

4.9 Viticulture and wine

The priority issues identified in the viticulture and wine workshop are presented in Table 9. Of the four prioritised issues, only one is commodity specific and the rest are general issues.

Four themes were identified through the literature review process. Three issues related to these themes, namely restrictive labour regulations, restrictive environmental legislation and compliance with retailer and voluntary initiatives and standards were raised during the focus group.⁸ Of these issues, environmental and minimum wage legislation were identified as priority issues in the focus group.

Table 9 Priority issues identified - Viticulture and Wine focus group

Theme	Issue	Reported Impact	Scope
Land-use change/development	Expensive and cumbersome approvals process (EIAs)	Impacts farmers in terms of cost and time. There is also an additional cost arising from the need to use consultants. This has also been identified as a considerable emerging farmer stumbling block.	General
Labour	Minimum Wage	Based on minimum wage, workers do not qualify for basic housing (above RDP threshold), but do not earn enough for bank loan. When farm workers retire, they stay on the farm property because they cannot afford housing elsewhere.	General
Taxation	Excise tax too high	This high cost, in addition to the delays experienced in gaining license approval, incentivises the illicit trade of alcoholic products. The high excise costs also impact the price of alcoholic products.	Commodity-specific
Extension Services	Lack of capacity /skills	Farmers and emerging farmers lack knowledge of legislation and what is required for them to comply. The implementation of extension services is also skewed towards emerging farmers,	General

⁸ The theme not raised during the focus group related to the rules around liquor advertising.

		with little support for commercial farmers. Commercial farmers are forced to work through consultants, driving up costs.	
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Note: For description of the issue as provided during the focus group, please see Appendix.

4.10 Table Grapes

The participants at the Table Grapes focus group identified eight issues of which four were prioritised for further analysis. The details of the four prioritised issues are presented in Table 10.

Table 10 Priority issues identified - Table Grapes focus group

Theme	Issue	Reported Impact	Scope
Market Access		Negative impacts on fruit quality. Unnecessary additional cost in the export process.	General
Labour	Health & Safety regulations	Cost of implementing and complying with legislation	General
Labour	Burden of housing falling on farmers/issues with ESTA	Cost of evictions in terms of direct cost (between R8, 000 and R12, 000 per household) and time (it takes between 6 months to 2 years to conclude). The additional cost of transporting workers to/from off-farm sites. Breakdown of training & upliftment programs as well as an eroding of healthy workplace relations.	General
Market Access	Export standards and certification requirements - duplication and cost	Cost of standards and audit programs relates to the associated time it takes (up to 9 audits per year on some farms) and the farm generally carries the cost of the audit (between R5,000 and R10,000 per audit)	General

Note: For description of the issue as provided during the focus group, please see Appendix.

Two of the issues prioritised related to themes identified during the literature review, namely the proliferation of standards schemes and labour management and welfare. Three additional themes (administrative pressures linked to being a 'grower-exporter', access to natural resources, and market access challenges for small-scale farmers) were not prioritised for action during the focus group. All the themes identified during the literature review, apart from the market access challenges of small-scale farmers, were also highlighted during an interview with industry experts (senior technical personnel within a large multi-commodity fruit exporting business) as pertinent issues for table grape farmers.

4.11 Rooibos

A large number of general issues were prioritised for action during the Rooibos focus group (see Table 11). Of these issues, only one (the regulation of product quality) was highlighted during the literature review. Two additional concerns raised during the literature review, namely funding the development of the value chain and Fairtrade labelling, were not raised during the focus group. The issue of maximum residue levels (MRLs) complicating market access was verified during an interview with a large rooibos farmer.

Table 11 Priority issues identified - Rooibos focus group

Theme	Issue	Reported Impact	Scope
Labour	Burden for housing falling on farmers/issues with ESTA	The economic burden to provide housing is falling on farmers.	General

		ESTA is perceived as a major constraint to the growth of agriculture.	
Infrastructure & Logistics	Interrupted electricity supply	The cost of interrupted farming, packing and cooling operations.	General
Infrastructure and logistics	Insufficient Wastewater Processing Capacity - polluted rivers.	Impacts the quality of water available for irrigation.	General
Water	Complexity, Cost & Delays in Accessing Water Rights	Limits on the expansion of farming operations.	General
Market Access	Export standards and certification requirements - duplication and cost	High cost of maintaining the required standards/certification scheme and the associated audit processes.	General
Chemicals	Cumbersome/Slow Registration for agro-chemicals	This hinders the farmers' ability to comply with the SA GAP regulations. Prevents farmers from using latest agro-chemicals – leaving crops open to pests and disease.	General
Market Access	Inconsistencies in food safety standards and MRLs	The misalignment between local (Dept. Of Health) and export (PPECB) microbiological standards for foodstuffs. Additional audits required and some markets closed.	General

Note: For description of the issue as provided during the focus group, please see Appendix.

4.12 Citrus

Six concerns were identified through the literature review process. Three of these - managing the proliferation of trade regulations and standards schemes; legal access to and management of natural resources; and labour management and welfare - were raised during the focus group. None of these were identified as priority issues in the focus group. During an interview with a Citrus Growers Association representative, it was highlighted that particular challenges for citrus farmers includes the Good Agricultural Practice (GAP) requirements, Integrated Pest Management requirements, post-harvest waste management, lack of investment in new chemistry, the chemical allowance problem with black spot and the different food safety standards that undermine consumer confidence.

Apart from the emerging farmer market-access issue, the two fruit industry experts interviewed (senior technical personnel within a large multi-commodity fruit exporting business) highlighted all of the issues identified in the literature review as being pertinent issues for citrus farmers.

Only one farmer attended the Citrus Focus Group. Consequently the focus group was combined with the Rooibos focus group. In addition to the four general issues highlighted in the Rooibos section above, a further two citrus specific issues were identified. These two issues are shown in the table that follows.

Table 12 Priority issues identified - Citrus focus group

Theme	Issue	Reported Impact	Scope
Infrastructure & Logistics	Insufficient capacity of ports	Higher cost of doing exports to the USA through the FPT facility in Cape Town and lack of capacity to support growth to the US market.	Commodity-specific
Market Access	The AGOA trade agreement	The US is an important market for Western Cape citrus and a failure to renew AGOA could make accessing the US market economically prohibitive for citrus farmers.	Commodity Specific

Note: For description of the issue as provided during the focus group, please see Appendix.

4.13 Top Fruit

Six people attended the top fruit Focus Group. The participants identified eleven issues of which four were prioritised for further analysis.

Three of the five possible concerns identified for top fruit farmers during the literature review were raised during the focus group, namely managing the proliferation of trade regulations and standards schemes; legal access to and management of water resources; and labour management and welfare were identified in the focus group. Only managing the proliferation of trade regulations and standards schemes; and legal access to and management of water resources were identified as priority issues during the focus group. Two additional general issues, a lack of capacity related to research, development and training, and uncertainty regarding land reform, were prioritised for action (see Table 13).

In an interview with an industry association representative it was highlighted that land reform and the uncertainty around land reform is a barrier to investment in the sector. The fruit grading regulations were also perceived as a particular problem as it was felt that the people that enforce the regulations only understand the law and not the product. An interview with representatives of a large multi-commodity fruit exporting business highlighted all of the issues identified in the literature review apart from market access issues experienced by small-scale farmers as issues pertinent to top-fruit farmers.

Table 13 Priority issues identified - Top Fruit focus group

Theme	Issue	Reported Impact	Scope
Market Access	Export standards and certification requirements - duplication and cost	High cost of maintaining the required standards/certification scheme and the associated audit processes.	General
Research, Development and Training	Lack of Capacity/Skills	The cost of losing access to markets and insufficient research and development to support the growth of the industry.	General
Land Reform	Uncertainty	Farms are reluctant to expand and/or reinvest in their operations	General
Water	Complexity, cost and delays in accessing water rights	Limits being placed on the expansion on the development of irrigation capacity on farms.	General

Note: For description of the issue as provided during the focus group, please see Appendix.

4.14 Game

The game industry largely perceives itself as falling under the auspices of Cape Nature, and that it does not have strong linkages with the WC DoA. All the themes identified in the literature review were raised by participants during the focus group. However, only two issues were classified as priority issues, namely the requirement of too many permits and animal health and welfare.

The priority issues identified in the game focus group are presented in the table below. The only priority issue to emanate from both the literature review and the focus group was the movement of wildlife and permit control. During an interview with the Chairperson of Wildlife Ranching South Africa in the Western Cape the same priority issues as identified in the workshop were highlighted.

Table 14 Priority issues identified - Game focus group

Theme	Issue	Reported Impact	Scope
Legislation - General	Too many permits in game industry	Creates considerable delays and hampers business.	Commodity-specific
Institutional relationships	Cape Nature not business-friendly (commercial game industry)	Inhibits the trade and management of game. Growth in the game industry is hampered by the DEA's 'conservation lens'.	Commodity-specific
Animal health and welfare	Game capture (South African Veterinary Council requirements)	This is a critical cost to ranchers in both time and money, in addition to forcing ranchers to rely on alternative methods (e.g. using nets), putting both game and workers at risk. Drives the illegal use of tranquilisers.	Commodity-specific

Note: For description of the issue as provided during the focus group, please see Appendix.

4.15 Emerging Farmers

4.15.1 Context

It was originally intended that emerging farmer focus groups would be held for a number of specific commodities (namely: viticulture and wine, table grapes, and top fruit). As the project progressed, however, it was decided that it would be more useful to segment emerging farmers based on the type of model through which they participated in agriculture (namely whether they shared equity with an established commercial farmer or partner as part of a government initiative, or whether they owned or leased land without an equity partner).

4.15.2 Issues identified in the Emerging Farmers: Equity focus group

Eleven issues including both general agricultural and commodity specific issues were identified during the focus group. The general issues included health/food standards, restrictive labour laws, and extension services. The commodity specific issues included issues around government funding for emerging farmers; specifically, the availability of information and the process for applications, as well as delays in approved funding. The following table summarises issues that were identified during the focus group.

Table 15 Priority issues identified in the Emerging Farmer Equity focus group

Code theme	Code Issue	Impact reported	Scope
Health/food safety standards	Meat inspectorate rules	Increases production costs	General issue
Market Access	Preferential procurement - smallholder farmer	Negatively affects viability and profitability	General issue
Funding	Funding process transparency	Removes incentive to start equity schemes Increases financial risks	General issue

Funding	Delays in the approved funding	Introduces production risk Threatens sustainability	Commodity specific
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4.15.3 Issues identified in the Emerging Farmer (Non-equity) focus group

Table 16 Priority issues identified - Emerging Farmers (Non-Equity) focus group

Theme	Issue	Reported Impact	Scope
Funding	Funding process transparency	Emerging farmers are not aware of what funds are available and how to access these funds (this relates especially to the funding scorecard and exit strategy)	General
Funding	Application process	Results in long turnaround times. This, combined with the fact that funding is granted in small amounts 'sporadically', inhibits farm investment by emerging farmers.	General
Land Reform	Access to land	Not owning land inhibits emerging farmers' access to bank loans. If farmers are forced to lease, they are forced to rent accommodation elsewhere, pushing up costs.	General
Market Access	Distance to market and transport costs	Inflexible transport costs really impact emerging farmers.	General
Market Access	Unfair pricing of emerging farmer produce, especially livestock	This can significantly impacts the emerging farmers' profit margins and their ability to operate.	Commodity-specific
Market Access	Retailer packaging requirements	This limits small-scale emerging farmers' ability to operate in the retail environment.	General
Extension services	Lack of training and support for emerging farmers	Ineffective support for emerging farmers from extension officers	General

Note: For description of the issue as provided during the focus group, please see Appendix.

In the emerging farmer (non-equity) focus group, four broad priority issues (funding; land reform; market access; and research, development and training) were identified. However, for clarity, these issues have been split up into sub-issues, presented in Table 16.

5 PRIORITISATION OF RECOMMENDATIONS

The focus group process highlighted 47 issues that were prioritised for action. Drawing on suggestions put forward at the focus groups and during interviews, relevant literature, and the experience of the project team members, 71 recommendations were generated to address the 47 priority issues.

In order to prioritise interventions, three criteria were used to filter recommendations:

- **Short-term filter:** *Is the recommendation likely to yield results within two years?* Recommendations that can be implemented relatively quickly can yield 'quick wins' which can demonstrate the value of regulatory reform processes to farmers and other stakeholders. It can also help to build momentum to continue regulatory reform processes.
- **Legislative filter:** *Is the recommendation directly related to a rule, regulation or administrative process?* A relatively broad definition of legislative environment was used

during the implementation of the Diagnostic Evaluation to ensure that as broad a range of issues as possible were highlighted. For the purpose of prioritisation recommendations, a narrower view of legislative environment was used to fit more closely with the Evaluation Questions outlined in Section 2.

- **Significance filter:** *Is the recommendation linked to an issue that was raised at more than one focus group?* This criterion ensured that issues raised were not only applicable to a specific context, and that the recommendation is likely to be able to support agriculture within the Western Cape more broadly.

In order to apply the filters a database of recommendations was created. The database also includes additional information to enable the WC DoA to select and prioritise future interventions. The following additional information is included in the Recommendations Database:

- Thematic grouping of issues (Theme coding)
- Scope of Issue addressed (general or commodity-specific)
- Commodity affected (if commodity-specific issue)
- Type of intervention
 - *Direct support:* Interventions that can be undertaken by the WC DoA directly.
 - *Guidance:* WC DoA required to provide guidance on its preferred approach to dealing with a legislative issue. This reduces regulatory uncertainty.
 - *Information:* WC DoA to provide existing information on how to deal with legislative issues to stakeholders in an easily accessible way.
 - *Research:* WC DoA needs to undertake further research to verify that a legislative issue is impacting negatively on agriculture in the Western Cape, better understand a legislative issue, and identify possible interventions.
 - *Engagement:* WC DoA should engage directly with a third party to highlight the importance of a legislative issue and to encourage the third party to address the issue.
 - *Facilitation:* The WC DoA should facilitate contact between farmers (and other local stakeholders) and third parties that are responsible for legislative issues.
- Partner (third party responsible for a legislative issue or stakeholder than can assist with an issue being addressed)
- Positive/negative
 - *Positive classification* refers to a component of the legislative environment that is missing, unclear or not being enforced. If correctly specified and enforced, components of the legislative environment with this classification can support the agriculture sector in the Western Cape.
 - *Negative classification* refers to components of the legislative environment that is considered overly onerous or unhelpful. This is akin to the concept of 'red tape'.

The application of the three filters yielded a short-list of 11 recommendations linked to five issues. The issues prioritised for action are shown in Table 17 and characterised according to the type of intervention required. These recommendations are described in the section that follows.

Table 17 Short-list of issues prioritised for action

Issue	Type of intervention				Total
	Guidance	Information	Research	Engagement	
Burden for housing falling on Farmers/issues with ESTA	1				1
Complexity, Cost & delays in Accessing Water Rights		1	1		2
Expensive & Cumbersome Approval Process (EIA)		1		1	2
Preferential procurement - smallholder farmer	2	1			3
Restrictive labour law	2	1			3
Total	5	4	1	1	11

The relevant component of the legislative environment related to each issue, and the details of the full list of 71 recommendations, are provided in the Appendix. A short summary of the issues is also provided for cross-cutting issues that were raised at more than one focus group.

Since the first two filters applied to recommendations, and not to issues, in many cases not all the recommendations relating to a particular issue were prioritised. For the complete range of recommendations linked to an issue, please see the Appendix.

6 RECOMMENDATIONS BY ISSUE

6.1 Burden for housing falling on Farmers/issues with ESTA

Focus group participants made a number of promising suggestions to address this issue. A selection of these is shown below.

- The eviction process needs to be simplified and made less costly. This can potentially be done by specifying clear rules and best practice as applicable to the agriculture sector.
- The development of agri-villages needs to be supported by government and legislation to allow the necessary re-zoning needs to be put in place. Focus group participants believed that the concept has buy-in from the most important stakeholders (farmers, farmworkers, banks etc.), but that clear government support was now needed to drive it forward.
- The WC DoA should work with local authorities to identify municipal land that can be used for housing projects, and to investigate models whereby more low cost and possible group housing could be developed close to agricultural activity. The Department of Rural Development and Land Reform should also be part of this process.

This is a politically charged and highly polarising issue. Consequently, it is recommended that the WC DoA undertake further research to consider the issue in detail. Based on the outcome of this analysis, there may be a facilitation role for the WC DoA to bring affected and interested parties (farmers, farm workers, local, provincial and national department and entities, etc.) together in a forum where the issues and proposed solutions can be jointly considered. As the culmination of this process, the WC DoA should issue guidance on its preferred approach to dealing with this issue in a way that balances the concerns of relevant local stakeholders.

6.2 Complexity, Cost & Delays in Accessing Water Rights

The following recommendations relating to water rights were prioritised for action:

- Create a leaflet outlining current attempts by DWS and other stakeholders to confirm existing water rights. It should be clear to farmers who they need to interact with to participate in this process.
- Undertake a study to evaluate the current administration of water rights in the Western Cape, with a focus on the ease with which water rights can be transferred or leased. This study could then serve as the basis to consider further interventions to influence these processes should it be deemed necessary.

6.3 Expensive & Cumbersome Approval Process (EIA)

The following interventions to reduce the burden of implementing environmental approval processes are prioritised for action:

- Following an agreement between the Ministers responsible for environmental affairs, water and sanitation, and mineral resources, amendments have been made to a number of Acts that govern environmental authorisations⁹ to give effect to “One Environmental System” for South Africa.¹⁰ The “One Environmental System” aligned the processes and timeframes for the processing applications and issuing of decisions. The WC DoA should engage with the Department of Environmental Affairs to determine whether applications under the CARA¹¹ is sufficiently aligned with the “One Environmental System” to allow for greater synergy in the application processes.
- Many of the suggestions from the focus groups have been implemented in some way but farmers are seemingly unaware of the tools available (such as class EIA applications where a number of farmers in a region can apply for authorisation through one EIA process, thereby pooling their resources). The Department could therefore play an active role in disseminating information about farmers’ options regarding application and licensing processes.

6.4 Preferential procurement - smallholder farmers

The following interventions to assist smallholder farmers to gain market access through the use of preferential procurement approaches were prioritised:

- Rather than mandating the participation of smallholder farmers in public sector contracts (as was suggested by focus group participants), it is recommended that ways to make it easier to include these farmers in public sector contracts using existing public sector

⁹ Namely the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) (“MPRDA”), the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) (“NEMAQA”), National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”), the National Water Act, 1998 (Act No. 36 of 1998) (“NWA”), and the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) (NEMWA).

¹⁰ DEADP. (2014). Department of Environmental Affairs and Development Planning Circular 0028/2014. Cape Town: DEADP.

¹¹ Conservation of Agricultural Resources Act (No 43 of 1983)

preferential procurement frameworks should be considered. The WC DoA should issue guidance on what it considers to be best-practice in this regard.

- It is recommended that the WC DoA maintains a list of all the farmers supported through its programmes, including those it manages/implements on behalf of DAFF and/or other government departments. This database could be held at municipal and/or district level so that it can easily be linked with any government projects and tenders. The government is currently piloting the implementation of the Agro-hub model. The WC DoA should assess to what extent this recommendation links to the initiatives of the Agro-hub model so as to avoid any duplication in effort.¹² This would require extension officers to act as a liaison between firms and smallholder farmers, thus facilitating access to markets. The list of beneficiaries should in no way be considered as a guarantee of access to public sector contracts, but rather as a way of linking commercial farmers with emerging farmers in order to meet preferential procurement requirements. It should also be made clear that there will not be a requirement to partner with farmers on the list; it is simply a way of providing an easy source of information for commercial farmers that are looking for empowerment partners.
- The implications of the new B-BBEE Codes of Good Practice (2013) that came into force in 2015 for smallholder farmers should be considered, and if relevant, guidance should be provided to smallholder farmers on how they can benefit from the new Codes.

6.5 Restrictive labour legislation

The following actions can reduce the burden of restrictive labour legislation:

- Focus group participants suggested the creation of an electronic platform for UIF and worker contract submissions to reduce the amount of time and effort needed to comply with UIF and contract regulations. The Department of Labour, however, has already launched an online platform for UIF submission (www.ufiling.co.za). The fact that some farmers are unaware of this points to an information problem. It is not however clear whether the platform exists for worker contract submission. Therefore, it is recommended that WC DoA considers an awareness campaign to make farmers aware of the online platforms that are available from the Department of Labour (DoL). In addition, the WC DoA should engage with the DoL to determine if online facilities for the submission of worker contracts and other documents exist. If this is not the case, it should motivate for the development of such platforms. If these platforms do exist, they should be included in the awareness campaign.
- With regard to audits, it was suggested that the Department of Labour, and other organizations that undertake labour audits (e.g. SIZA), should consider aligning the audits so that they provide minimal disruption to farm activities.
- The WC DoA should consider the relative merits of supporting the development of farm-services firms that can employ workers directly and provide seasonal labour to farmers

¹² Hancock, T. (2015, March 27). Agribusiness push continues as govt. seeks to bolster economic growth, job creation. *Engineering News*.

when required.¹³ Focus group participants mentioned that it would be most useful if these firms have a stronger relationship with workers than under the current labour-broking model, since that would enable workers to be trained and retained within the agriculture sector (so that firms can provide trained and experienced workers at different times of year to different commodity groupings). Unlike under the labour broking model, the workers would thus be full-time employees of the farm-services firm which provides services on a contract basis (contract between services firm and farmer) to different commodities at different times of year.

7 CONCLUSION

This diagnostic evaluation highlighted the complex regulatory environment within which farmers operate in the Western Cape. A large number of rules, regulations and administrative processes that impact farming operations in the Western Cape were identified. This included both positive (where a component of the legislative environment that is missing, unclear or not being enforced which could support agriculture development) and negative (components of the legislative environment that are considered overly onerous or unhelpful - akin to the concept of 'red tape') issues. Interestingly, while a number of commodity-specific issues were raised, it was general issues that were most consistently singled out as requiring attention (the exception was the Game focus group, where only commodity-specific issues were flagged for attention – but all these issues are already being addressed by the industry).

A total of 115 issues were raised at focus groups, 47 of which were prioritised for by focus group participants. 71 recommendations were put forward to address priority issues based on input from stakeholders (via focus groups and expert interviews), literature, and the project team's experience. In order to develop an actionable list of recommendations for the WC DoA, recommendations were prioritised based on whether they're likely to generate results within two years, whether they related directly to a rule, regulation or regulatory process, and whether they were raised at more than one focus group. This led to the development of **a short list of 11 recommendations (linked to five issues) to be prioritised for implementation by the WC DoA.**

In addition to implementing the 11 specific recommendations, based on the experience of implementing this diagnostic evaluation, it is also **recommended that structures and processes are put in place by the WC DoA to ensure more frequent interaction with farmers on issues arising from the legislative environment.**

In general, it was found that farmers were not accustomed to engaging directly with processes to address regulatory issues. Most farmers believed that the associations they belong to are communicating these issues to WC DoA and DAFF, and that consequently there was little need for them to participate in these processes. While associations are active in addressing ad hoc issues, the diagnostic evaluation found much less emphasis on a systematic approach to addressing specific issues by growers associations.

¹³ The suggestion was first raised by André Smit of the SA Stone Fruit Producers' Association (SASPA). It is recommended that the WC DoA contact Mr Smit to discuss the issue.

Stakeholders mentioned that these issues are typically raised directly with relevant public sector officials, but the results from these interactions are therefore limited to those directly involved. This was confirmed by the extensive literature review undertaken as part of this diagnostic evaluation. While a large number of issues were identified during the literature review, issues were mostly mentioned in passing without a detailed analysis of causes, impacts and possible solutions. Very few recommendations for addressing issues were put forward given the number of issues identified in the literature.

During most focus groups it was highlighted that farmers did not know how to approach the WC DoA. There were exceptions, however – which may indicate that communication is driven by the level of engagement between individual farmers and individual WC DoA representatives rather than formal structures. In addition, there was a general feeling that farmers were not consulted when rules and regulations were developed, and that this led to unnecessary cost and effort on their part as they dealt with legislative components that were not designed to consider their context.

Farmers that had participated in earlier processes to address rules and regulations exhibited research fatigue and felt that there was significant duplication of effort that rarely delivered tangible benefits. Efforts to reduce the regulatory burden in the agriculture sector were thus viewed as a series of 'once-off' events (often with little incremental value), rather than a continuous process to make it easier for them to farm. As a result many farmers had little confidence that the current diagnostic evaluation would be of any greater value.

This lack of engagement with regulatory reform processes has had a number of consequences. Firstly, there was a lack of willingness to participate in the diagnostic evaluation. Even with the assistance and explicit endorsement of the WC DoA and growers associations it was difficult to find farmers willing to attend focus groups. Secondly, it was difficult to engage with farmers in detail on the specific impacts of rules and regulations. Despite prepping farmers in advance on the type of information required, very little quantitative data was received and most issues were raised at a relatively high level. Impact was largely illustrated with qualitative examples. There was also a greater than expected emphasis on general issues; this despite attempts to focus on commodity-specific issues with clearly defined impacts (although a number of important commodity-specific issues were identified).

The exact nature of structures and processes to ensure more frequent interaction with farmers on issues affecting the legislative environment should be determined in consultation with the Western Cape representatives of growers associations, and in cases where associations do not have formal Western Cape structures the emphasis should be on identifying local representatives. The goal should be to promote participation by Western Cape farmers in regulatory design and reform processes, and to provide clear and easily accessible lines of communication between farmers and the WC DoA (which may or may not include going through an association). This will help to build trust and facilitate information sharing between the WC DoA and farmers.

This process could be strengthened through closer collaboration with the Western Cape Department of Economic Development and Tourism's Red Tape Reduction Unit. The unit already has a Red Tape Reduction Business Helpline in place that could facilitate communication between farmers and the public sector regarding problematic rules and regulations. The Helpline's coding

framework includes a number of issues raised during the focus groups (like EIAs, water rights, zoning applications etc.), so incorporating more agriculture related issues should be relatively easy. Issues raised could then be passed on to a dedicated WC DoA contact person to be dealt with. Alternatively, the WC DoA could build on the learnings from the Helpline to develop a similar service targeted at agriculture to complement extension services.

The database of recommendations developed to prioritise interventions based on the results of the current diagnostic evaluation can be used to identify further interventions to address issues or themes that may emanate from future regulatory reform processes undertaken by the WC DoA.

8 APPENDIX

Appendices are provided in a separate document.



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