**Response to ACCC information request – Australian certification trade mark application 1749229** 

**Background**

ACCC’s consultation process resulted in a number of responses from industry bodies, including the Cattle Council of Australia (CCA), Australian Meat Industry Council, Australian Meat Industry Council, Australian Lot Feeders’ Association (ALFA) and AUS-MEAT Limited.

As a preliminary point, it is important to note that the red meat industry includes a number of conflicting interests, as the number of industry respondents itself indicates. There is no one industry consensus on the FPAS Standard. Indeed, it is noteworthy that only two producers filed responses to the FPAS Standard and that no government departments have indicated any concern regarding the FPAS Standard, notwithstanding direct consultation by the ACCC.

Each of the industry bodies above is itself comprised of commercial operators within the industry. The industry body responses reflect commercial interests in the market. They should not be treated as an objective consensus of the interests or concerns of the industry as a whole. For example, the CCA controls the PCAS/certified pasture fed system (which is presently used by only around 300 Australian producers) and ALFA controls the feedlot/certified grain fed system (which is presently used by only 450 accredited feedlots around Australia). The FPAS Standard combines the best of both of these feeding alternatives, providing the production efficiencies and higher meat quality gradings (including MSC gradings) of grain supplemented feeding, and the higher animal welfare of pasture finishing. The FPAS Standard is therefore potentially disruptive to the vested interests at the pasture fed and grain fed extremes of the market.

However, it does not follow that the FPAS Standard would be detrimental to the public or otherwise unsatisfactory having regard to the principles of competition. The combination of pasture feeding and grain supplementation is used by the majority of the 60,000+ cattle producers in Australia. Producers, processors and retailers have long indicated a market demand for a certification scheme for hybrid feeding options – for example, see the attached 1999 article. Ceres Agricultural Company (Ceres), in efforts with one of their main processors Bindaree Beef, have repeatedly discussed the matter with both AUS-MEAT and Meat & Livestock Australia (MLA) over a number of years, as detailed below. The FPAS Standard represents an attempt by Ceres to meet this market demand and ensure consumers have access to clear information regarding the feeding system used in production under the FPAS Standard. Certification under the FPAS Standard will be accessible to the vast majority of Australian red meat producers who use hybrid feeding systems, will promote competition (including across different feeding methods), and are therefore very much in the public interest.

Finally, while AUS-MEAT via the Australian Meat Industry Language and Standards Committee (AMILSC) controls some trade descriptors in the meat industry including certain raising claims (the **AUS-MEAT Language**), the AUS-MEAT Language only regulates export claims via AUS-MEAT’s delegated powers under the Export Control Act 1982 and the Export Control (Meat and Meat Product) Orders 2005. AUS-MEAT doesn’t control all trade descriptors and raising claims across the industry as a whole. It is apparent from a cursory review of the red meat industry that any number of feeding and raising claims are in use in parallel with CCA’s and ALFA’S certification schemes and the AUS-MEAT Language, including for example “grass fed” and “Grass Fed, Free Range” beef (see eg. http://www.freerangebutcher.com.au/), “grass raised” and “grain finished” beef (see eg. https://aaco.com.au/our-brands/), “walnut fed” beef, “pasture fed” beef (see eg. http://organicmeatonline.com.au/), “grain fed” beef (see eg. http://www.sanger.com.au/meat/). Introduction of further feeding and raising claims which are accurate and supported by the FPAS Standard will improve the quality of consumer information in the industry and thereby improve competition across all feeding modalities. The FPAS Standard is therefore in the public interest. Indeed, restricting consumer information regarding the production methods used by most Australian producers, including via certification under the FPAS Standard, would substantially limit competition in the sector.

In short, the responses from industry bodies do not reflect an industry consensus against the FPAS Standard, and the FPAS Standard does not fall within, or contravene, any regulatory powers including those of AUS-MEAT.

1. **Please provide a response to the concerns raised that the proposed FPAS Standards may:**
2. **Undermine initiatives to establish industry wide consensus on definitions that describe livestock production methods:**

The production of red meat with the Australian Market-place can be viewed as a spectrum of offerings. At one end of this span, we have the 100% grass or pasture fed producers (only around 300 of which are certified under CCA’s PCAS scheme). At the opposing end of this same spectrum are the fully grain fed production based systems (about 450 of which are certified under ALFA’s grain fed scheme). Sitting in between these two extremes are a plethora of productions systems, which are based on varying hybrids of the before-mentioned programs, and which represent the vast majority of red meat production systems in Australia. Therefore, there is great need for a program as well as clear definitions with respect to production systems that sit neatly between these two extremes, in order to ensure consumers have access to reliable information about the full range of products available within the industry.

Supplementary feeding has been well recognised within Australia for many decades. Unfortunately, despite its notoriety, supplementary feeding still lacks both support as well as a clear definition mandated by Industry due to the fierce opposition associated with the commercial interests of the Pure Grass (including under CCA’s PCAS scheme) and Grain Fed Producers (including under ALFA’s grain fed scheme). Consequently, those producers who remain placed somewhere in the middle remain without an Industry program in order to differentiate and capture a premium for their product and to ensure consumers have access to reliable information about the full range of products available within the industry. This has reduced competition in the Industry to the detriment of the vast majority of producers who utilise these hybrid feeding programs. It also fails to inform consumers of the benefits of free range grain finishing and the welfare benefit to the animal.

This shortcoming was made clear to Ceres after much feedback from their Clients including Ceres’ various processing partners. These Clients were very keen to have specific language, which had been recognised as a new industry segment, so that they could brand and price accordingly.

In order to satisfy this customer requirement, Ceres approached MLA many times between 2008 and 2014 in order to discuss this matter. MLA is the red meat producer-owned research, development and marketing body who takes direction from the pasturefed producer body Cattle Council of Australia (CCA), as well as Australian Lot Feeders Association (ALFA) and is a Joint venture partner of AUS-MEAT, in order to discuss the possibility of industry establishing such a system.

The advice provided to Ceres by MLA during the course of discussions was to pursue such a program independently from industry as there was no funding available for such an initiative, nor was there the appetite within the industry to establish any form of differentiation, either by program or by definition, for this form of production system despite producer and customer interest.

In addition to advising Ceres to undertake this course of action, MLA recommended a consulting company who were familiar with industry standards in order to help write the standard and ensure consistency with industry standards and language in general. The consulting company had previously worked on the PCAS standard. This consistency with Industry was of primary concern for Ceres during the development of the FPAS Standard. It was not, nor is it, the intent of Ceres to develop a standard that contradicts what industry has produced. This is why elements of the FPAS Standard reflect that of the PCAS Standard (discussed further in this response). Nor is it the intention of Ceres to preclude other producers from using the standard.

In addition to the discussions held between Ceres & MLA, MLA’s Donor Company committed circa $150,000 (to be matched dollar for dollar by Ceres) in 2014 to market a product produced under such a standard, if Ceres were able to develop a program in their own right. Ceres was encouraged by this show of good faith and therefore acted upon MLA’s recommendation to appoint a qualified consultant with the respect to developing the FPAS Standard. Ceres have since invested a significant amount of private funding in order to develop the proposed CTM, mindful of MLA’s support for the concept.

At no time between has MLA ever advised Ceres of any industry initiative / parallel effort aimed at establishing consensus on definitions that describe this particular production method. It remains Ceres’ understanding that, contrary to what may have been advised to the ACCC, no such initiative was previously progressed during this time, nor has it progressed significantly since. Based on the fact that Ceres is the country’s largest red meat producer utilising a hybrid feeding model, coupled with the fact that it sits within MLA’s top ten levy payers, one would assume that Ceres would have been consulted on any such initiatives.

Furthermore, MLA did not express any reservations about the introduction of a standard for hybrid pasture and supplementary grain feeding, apart from a concern it might be opposed by ALFA due to ALFA’s commercial interests in exclusive grain fed/feedlot production methods. To the contrary, MLA provided assistance for the independent development of the standard including referral to the consulting company as noted above and funding via the Donor Company. Ceres attempted on many occasions during the same period to engage with CCA in order to discuss this initiative with the most recent approach being in February 2016. CCA remained substantially unresponsive. Ceres have since met with certain PCAS members, on behalf of CCA. The catalyst for this meeting was the consultation period undertaken by ACCC, not the myriad of previous attempts made by Ceres to meet with CCA.

It is Ceres’ understanding that while there is interest among some sectors of the industry and supplementary feeding has been discussed by the AMILSC as discussed in further detail below, until such time as consensus is reached, no such initiative will be progressed. As previously identified, this is an issue that has been the cause of debate for many years and no progress has yet been made by industry, nor will it while consensus remains elusive. This deadlock is likely to continue while those with commercial interests on the opposing ends of the spectrum hold the balance of power, namely ALFA and CCA. In the meantime, consumers and producers will continue to be deprived of a meaningful standard to differentiate the vast majority of products within the red meat industry which are produced on a hybrid pasture and supplementary grain feeding model.

Ceres has since become aware from discussions with AUS-MEAT that AUS-MEAT is looking to develop a definition for supplementary feeding. ACCC should note that no formal definition has yet been established. AUS-MEAT’s initiative was introduced to the public arena post the release of Ceres’ CTM.

Ceres, as a top 10 levy paying producer member of MLA, has not been aware of any consultation by AUSMEAT, CCA or MLA with producers on this matter. Ceres therefore refutes the premise that the FPAS Standard undermines any industry initiatives. We also note that if AMILSC fails to reach a unanimous decision on a supplementary feeding definition, a majority decision of AMILSC is required to refer the matter to the AUS-MEAT board to decide on a consensus basis. Ceres is aware that ALFA’s opposition to supplementary feeding systems is obstructing progress on this front at the AMILSC level. Ceres’s FPAS Standard is already well advanced, and given the long-standing industry demand for a certification scheme, Ceres does not believe that any preliminary efforts by AUS-MEAT towards a supplementary feeding definition (which has not yet been established) has any bearing on the FPAS Standard. Furthermore, it may be argued that any industry initiatives now being referenced would indeed undermine Ceres’ private standard which was borne out of necessity to satisfy customer demands.

Ceres maintains that any claim of an industry developed initiative that may be adversely impacted by this CTM is fanciful and may represent an exaggeration of the progress by industry to date.

Industry has had years to develop such an initiative with no result. Over the years, Ceres, along with other producers, have sought to engage with industry on many occasions to motivate them in order to undertake such an initiative. It is only as a result of discussions with MLA and out of sheer frustration with the fact that not one of the many industry bodies were willing to discuss such an initiative, that Ceres invested in its own private standard in order to meet the demands of its customers and the industry generally.

Ceres is responding to a commercial imperative and clear demand from customers. Ceres needs to be responsive and keep pace with commercial demands and has taken the lead in developing the standard to enable other producers in the industry to share in the benefit of a meaningful point of differentiation for the vast majority of products within the red meat industry which are produced on a hybrid pasture and supplementary grain feeding model. While the industry may have genuine intentions to progress a related definition or standard at some point in the future, evidence of past performance indicates that industry will not move at a pace that allows Ceres to capitalise on this demand and take advantage of opportunities as they present. Ceres does not feel it appropriate that its performance as a business, or that of other producers within the industry, be compromised by the slow pace of industry development when it is ready, willing and able to take advantage of an immediate business opportunity. Further delay would not be in the interests of the vast majority of producers who use hybrid feeding models or in the interests of consumers, who lack clear information to differentiate the available red meat products in the industry.

1. **If inconsistent with definitions that may be established and adopted by industry more broadly, create confusion for customers:**

This proposition is hypothetical. Ceres’ activity predates any industry initiative in this area. Industry consensus regarding such a Standard is yet to be achieved and as such no significant work in this area has been conducted and made open to the public.

As previously stated, Ceres was encouraged to develop this Standard by MLA due to a recognised lack of definitions or programs in this area. Ceres has progressed and invested significant time and capital in this initiative in good faith on that basis. It has been Ceres’ position that this Standard may become the basis upon which industry establishes a definition at a later date and this has always been, and remains acceptable to, Ceres.

Should industry actually establish a definition, Ceres would welcome the opportunity to contribute to the consultation process that is likely to be required among producers, particularly as Ceres is the largest producer currently using a hybrid feeding model. Ceres will continue to work with AUS-MEAT's Language and Standards Committee in the development of appropriate language for this production method and plans to attend the next AMILSC meeting on 15 November 2016 in order to further enhance channels of dialogue. Indeed, given the investment Ceres has made in this area over the past fifteen years, it would make sense for industry to work with Ceres to leverage that investment and minimise duplication. Equally, as the FPAS Standards are a 'living document' a primary consideration of Ceres throughout the development process was to ensure consistency with industry standards. In the meantime, it is highly unlikely that the development of a standard for a hybrid pasture and supplementary grain feeding model, in a space where no such standard presently exists, could give rise to any confusion.

1. **More broadly, please provide a view about the work currently being undertaken by the AMILSC to develop industry definitions around livestock production methods and in particular the potential implications of this work for the FPAS Standards and CTM.**

As previously stated, Ceres was encouraged by MLA to invest in the development of the Standard and at no time between 2012 and submission of the CTM in 2016 was the development of an industry definition raised with Ceres. Further, it is Ceres’ understanding that until a consensus is reached regarding the development of a definition, the definition will not proceed meaning this work is as yet in its very early stages. As noted above, Ceres understands that ALFA’s opposition to supplementary feeding models generally (which produce similar feeding efficiencies and meat quality to grain feeding but with higher animal welfare) is a serious obstacle to progress on this front, as AUS-MEAT requires a unanimous board decision to proceed.

Ceres has recently become aware of correspondence between its processor partner, Bindaree Beef, and AUS-MEAT in 2014 (copy attached). Ceres was not a party to the communication. This correspondence, initiated by Bindaree Beef, reflects the situation at that time with AUS-MEAT stating that there were no Trade Descriptors for this form of production system. Nowhere in this correspondence is there any indication from AUS-MEAT that this was a definition that was being considered by AMILSC. This correspondence itself reflects the demand within the industry for a standard for pasture and supplementary grain feeding models.

It is only since Ceres submitted this CTM that AUS-MEAT has indicated that the development of a definition is 'underway'. Further discussions with AUS-MEAT have confirmed development of a definition is in its very early stages.

As a producer with a significant interest and investment in the development of such a definition, Ceres has indicated to AUS-MEAT that it would appreciate the opportunity to review and comment on any proposed industry definition once this work is further progressed. As noted in the background comments above, AMILSC has no general power to regulate all claims in use in the red meat industry.

Finally, the standard is aimed at providing further detailed information to consumers to enable them to differentiate quality products in the market. That is clearly consistent with increasing competition through diminishing consumer confusion and supplementing existing standards and information schemes in the market, rather than cutting across other industry efforts in the hybrid pasture fed and supplementary grain feeding sector (which as far as Ceres is aware do not yet exist).

1. **Please provide a response to the concerns raised that the term ‘Pasture Finished’ implies a predominately grass or pasture fed diet whereas the FPAS Standards appear to provide significant discretion about the mix of diet (grass/pasture and grain).**

Ceres maintains the term Pasture Finished does not imply a predominately grass or pasture fed diet. Predominately grass or pasture fed diets are those that are referred to as grassfed or pasturefed, for example the PCAS Standard certification mark:

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Ceres submits that the certification mark clearly represents that the cattle are finished *in* a pasture, rather than defining the diet of the cattle as predominately grass. Additionally, the FPAS Standard mark clearly includes a picture of grain:

 

In fact, specific references to grain feeding or supplementation were not included in the mark due to ALFA’S previous opposition to industry use of grain supplementation-type claims.

As a Standard that exists to cater to the middle of the grain/grass spectrum, it stands to reason that there is flexibility relating to the mix of diet - a blend of both is the essential requirement of the FPAS Standard.

The Standard, therefore, allows animals to be grazed on open pasture with ad lib access to grain meaning the proportion of the diet made up of pasture and grain is at the wilful discretion of the animal. Such a production system is frequently used by a large majority of Australian producers and is sometimes referred to as supplemental or supplementary feeding, or grain assisted.

The mix of pasture/grass and grain is at the discretion of the animal and is indicative of an open and free ranging environment which encourages animals to exhibit their own natural eating behaviours while ensuring they have access to supplemental feed should it be required.

1. **Ceres notes that the MSA certification grading of its meat products is consistently at the higher end which reflects the function of the standard as indicating a higher quality product for consumers, as well as a higher welfare feeding system given the animals are finished in a pasture, in which they are allowed to range freely.** **More generally, a standard providing ‘ad-lib access to both grain and pasture’ absent guidance about how this part of the standard should be interpreted, appears to give broad discretion to Certified Producers about the mix of the diet allowed.**

**Please provide a response to concerns raised that the mix of diet allowed could create confusion for consumers about the diet on which cattle from which products bearing the mark have been raised.**

The broad discretion relating to the mix of diet recognises that this Standard sits between 100% grassfed and 100% grain fed, therefore it is realistic to allow discretion with regard to the mix of the diet. The discretion provided by the FPAS Standard is to the cattle to determine consumption, not to the producer.

The clear intent of the Standard is to allow both grain and pasture to be available at the same time. That is the essential feature of the FPAS Standard, as opposed to the PCAS system (exclusive grass feeding) or CCA system (exclusive grain feeding).

It is reasonable to expect that only at the extreme ends (100% grass or grain) would certain feeds to be prohibited whereas in the middle ground it would not be logical to be as prescriptive as livestock are drawing on both grain and grass/pasture.

Certified Producers can take further guidance on this by considering the stocking rate and grain rations requirements as a whole (refer items 6 and 7 respectively). In practice, cattle finished in accordance with the FPAS Standard will generally consume roughly 9-11 kg of grain daily – long term average consumption is 9.2kg as fed of a 14.4 mega joule ration, with the grass component of the feed dependent on the weather and palatability of the pasture.

The FPAS Standard provides for adequate ground cover and crop rotation, which improves the nutritional value and palatability of pasture. If this is of concern to the ACCC, Ceres would be happy to consider including greater specification relating to ground cover, similar to that provided in the American Grassfed Association's Grassfed Standard and PCAS, to balance the focus on specifications relating to grain rations. For example, this could be incorporated by reference to MLA’s established stocking calculator to ensure consistency with industry standards and best practice.

It is Ceres’ opinion that this FPAS Standard provides greater clarity for consumers in that it recognises this middle ground production method which is often incorrectly associated with either ends of the spectrum (grass/pasture fed and grain fed). This production system arguably supports the production of a product which is able to be produced by more Australian producers than the alternatives, caters to the basic instinct for cattle to have choice in their diet and thereby more consistently delivers a better animal welfare outcome than 100% grass/pasture fed or grain fed, and which (when applied in accordance with the FPAS Standard) consistently produces a higher grading meat with improved fat and meat colour and eating quality, including under the MSA grading scheme. Ceres’ cattle produced in accordance with the FPAS Standard have won several awards, most recently the Gold Medal at Sydney Royal Show in the Open Category in September 2016. Again, the fact that the product was entered within the ‘Open’ Category re-enforces the fact that there is a clear gap in the market with respect to the labelling this production system. . Ceres therefore considers this initiative to be a means to clarify some of the consumer misperceptions around production systems and allows a significant segment of producers the opportunity to differentiate their product, improving competition across the entire industry.

As noted in the background above, a vast number of feeding and rearing claims are presently in use in the industry in addition to the PCAS and grass fed certification schemes. To some extent, confusion arising from use of “pasture” claims may be the result of industry not establishing an appropriate definition for hybrid feeding models previously. The introduction of the FPAS Standard will reduce consumer confusion by clearly stipulating the feeding model used to produce cattle certified under the FPAS Standard.

1. **A concern has been raised in submissions that allowing cattle to be confined to yards and pens for an initial socialisation period of up to 20 days, as provided for by element 2 of the FPAS Standards, does not accord with consumers understanding of the term free range.**

**Please provide a response to these concerns**

Even within other industries, it is accepted by consumers that free range does not connote 24x7 ranging activity and it is therefore reasonable to expect that some period of time in an animal's life will require confinement, for example for transport, management, welfare or for quarantine reasons. Indeed, the ACCC’s October 2015 publication *ACCC enforcement guidance—free range hen egg claims* (https://accc.gov.au/system/files/1029\_Free%20range%20Eggs%20guidelines\_FA.pdf) stipulates that:

We understand laying hens may spend periods indoors, for example, to avoid hot or poor weather, when predators are present, when the hens are medicated etc. We expect producers to take the same common sense approach as we would and not expect to always see hens on the range or expect every hen to be outside every day.

Furthermore, the new national standard for “free range” egg claims will require hens to be given “meaningful and regular access to the outdoors.” However, it is expected that hens will be regularly confined, eg. at night. Finally, the new national stocking ratio for “free range” claims is 10,000 hens per hectare, or up to one hen per square metre.

As a result of the above, consumers can be expected to understand the term “free range” as indicating that animals have regular free access to the outdoors but that that access may be restricted where circumstances require, for example for health or animal welfare reasons.

In the context of the red meat industry, the yard weaning of cattle is increasingly being considered best practice and is not generally considered to be in violation of ‘free range’. The socialisation requirement under this Standard delivers similar benefits to yard weaning.

Cattle are recognised as being social creatures and introduction of livestock to new groupings is known to potentially cause stress in the animal. Allowing animals to socialise in a confined outdoor environment for a short period of time is a means to ease and monitor the stress. Introducing cattle from other farms also presents a biosecurity risk and often producers will place cattle in quarantine yards or paddocks for a period of time in order to preserve the biosecurity of their property. For example, the incubation period for bacterial pneumonia in cattle is up to 20 days, so an initial confinement period can help identify and treat the disease in infected cattle as well as to prevent the spread of the infection. Similarly, a transition to a partial grain supplemented diet can cause transient health issues for cattle which are best managed when cattle are temporarily confined during this period. This allowance recognises this imperative. Short-term confinement for socialisation or quarantine reasons are reasonable activities and should not be considered in violation of 'free range'.

The distinction under the Standard is that this confinement is for health, welfare, husbandry, biosecurity and management of the animal and is for a short period of time.

Furthermore, the short term confinement of cattle under the FPAS Standard is in pens which measure 1500m2 with a maximum of 100 head of cattle per pen. Each animal therefore has 15m2 within which to move. That is not inconsistent with the accepted “free range” ratio in the chicken industry of 10,000 hens per hectare.

Outside this short period of confinement, the animal roams in an open environment day and night. Unlike “free range” hens, there is no further period of regular confinement eg. at night.

1. **Please provide details about how it is intended that individual Certified Producers to determine stocking rates for the region, including the type of information to be used as guidance in making the decision.**

Stocking rates are based on a number of variables including soil type and topography, animal type, pasture base, fertiliser use and environmental conditions. Most producers complement their local knowledge and measurements (feed budgeting) with information from the department of primary industries, agronomists, farm advisors or agents when determining stocking rate. More advanced producers will have livestock nutritionists that will make such recommendations and consider net feed intake and daily weight gain.

It is difficult to specify a set stocking rate as this is influenced by far too many factors unique to each individual production system. The Standard does not advocate ‘factory farming’ and as such densities cannot be explicitly defined as they can be in the 100% grainfed industry. It is expected that the producer will inform themselves of the appropriate stocking rate for their land and the auditor will verify how they have established this and if it is indeed appropriate. The auditor plays a very important role in this regard and Ceres is currently developing very comprehensive auditor guidance material and auditors will be required to be qualified and trained on the Standard.

Various departments of primary industries have developed tools to assist producers in establishing stocking rate and MLA has a stocking rate calculator which is freely available. While it would not be appropriate to mandate the use of these tools in the FPAS Standard, as they are proprietary, Ceres has developed a manual to assist producers meet the standard and references to such information can be included in this.

If however this is of ongoing concern to the ACCC, Ceres would be happy to consider including a maximum stocking density, eg. Utilisation of MLA’s stocking rate calculator which would then stipulate a minimum number of square metres of grazing pasture for each head of cattle for that particular geographic location.

1. **Please provide details about how it is intended that individual Certified Producers will determine what grain rations are appropriate to the physiological needs of the cattle including the criteria to be used as guidance in making the determination.**

Producers generally rely on advice from MLA, departments of primary industry, agronomist, farm advisors or agents when considering feeding. More advanced producers will have livestock nutritionists that will make such recommendations.

Many producers undertake profitable supplementary feeding; that is pasture feeding supplemented with grain. They have devised both simple and more complex methods to do so. This program seeks to recognise such initiatives in response to consumer demand and provide a mechanism for both satisfying consumer demand and rewarding proactive producers.

Ceres would be happy to provide further details as to minimum intake levels required in association with optimal performance of the animal.

1. **Please provide details about the process for considering appeals about certification decisions. Please also advise if it is intended that Certified Producers will have a right of appeal against decisions to suspend or withdraw certification, and if so provide details.**

As per paragraphs 46-49 of the Certification Rules, Applicant or Certified Producers can lodge an appeal with the Certification Body against the Certification Decision. Such Producers have 14 days from when they are advised of the Decision to lodge an Appeal.

Certification Bodies operating under the Standard are required to demonstrate they meet the requirements of *ISO/IEC 17065:2012, Conformity assessment -- Requirements for bodies certifying products, processes and services* which includes the need for such Bodies to have a written appeals process.

An independent person within the Certification Body is tasked with undertaking a review of the Appeal and determining an outcome.

This is consistent with most conformity assessment programs based on ISO.

In addition to Appeals, as per paragraphs 89-98 of the Certification Rules, Applicant or Certified Producers can make a Complaint to FPAS Administration. FPAS Administration is required to have a documented complaints handling procedure, and Ceres is able to provide this upon request. This allows Producers to raise the outcome of an Appeal with FPAS Administration directly.

In order to address the ACCC’s concerns, Ceres has also incorporated additional dispute resolution provisions in markup in the attached version of the FPAS Standard to clarify the above.

1. **The ACCC is interested to understand the basis of the similarities between some elements of the FPAS Standards and the PCAS program. Please provide details about the development of the FPAS Standards, including any source material relied on in developing the FPAS Standards.**

There are some similarities between the programs and other related programs in use in the industry in Australia and overseas. Indicative examples are attached. The common elements between the standards are primarily the result of:

* both standards incorporating the required traceability element (which is to be expected as both require lifetime traceability with the industry program - NLIS);
* both standards incorporating Antibiotics/HGP provisions (which is to be expected given both draw on the AGA and USDA requirements); and
* both standards drawing on ISOs including ISO/IEC Guide 59:1994: Code of good practice for standardization and ISO/IEC 17065:2012 - Conformity assessment -- Requirements for bodies certifying products, processes and services. being based on

In developing this Standard, Ceres recognised the need to complement and align with other industry standards; indeed one rationale for MLA recommending a recognised consultant to assist Ceres with the development of this Standard was to encourage complementarity within the industry.

PCAS has, over the years, become the recognised standard for 100% grass/pasture fed systems and programs and indeed other private programs are often based on PCAS. For example, a side by side comparison of the JBS Natural Grain program will show that it also draws extensively on PCAS.

Given the FPAS Standard represents the middle ground between 100% grassfed and 100% grain fed, it stands to reason it should draw on the industry programs that exist at these two ends of the spectrum as it represents the acceptable merging of the two extremes.

In saying this, the PCAS Standard was not the only source referenced in developing the FPAS Standard and standardised wording is becoming consistent across various Standards within the industry.

Not only does the FPAS Standard draw on the same source material as PCAS but, in order to ensure consistency with industry standards and practices, it also draws on the National Livestock Identification System and Livestock Production Assurance program requirements. The consultant has provided the attached document which sets out the source materials for both the FPAS Standard and the PCAS Standard, with common sources highlighted.

As per the bibliography provided in the Standards and the attached source materials document, reference has been included to the PCAS Standards along with other items considered when developing the FPAS Standard.

Ceres considered this approach to be a good practice in order to ensure consistency across the industry and avoid any contradiction between the FPAS Standard and other industry standards.

Given that Ceres has developed the standard with a view it will be made available to industry the consistency in language is imperative.

1. **Please also provide a response to the concerns raised in some submissions that similarities between the FPAS and PCAS program could create confusion for cattle producers and consumers.**

Ceres maintains that the FPAS Standard will not cause confusion with consumers as the PCAS Standard operates at one end of the spectrum. We believe that after speaking to many consumers and clients, the FPAS Standard would actually clarify how the beef is raised that they eat, thereby avoiding consumer confusion. At the opposite end of the spectrum, for example, there is a lot of confusion on behalf of producers and consumers in regard to exactly what “grainfed” (including under CCA’s certification scheme) is – most consumers have no idea that “grainfed” cattle are confined to 15 m2 feedlots throughout finishing. Further, the MSA grading system has not helped the cause with most consumers having no idea what it means – in fact most producers don’t understand it.

Following the rationale of those who have commented regarding potential confusion, one could have said that the introduction of PCAS would have caused similar confusion with the other end of the spectrum, and there is no evidence of this being the case.

It is highly unlikely that the FPAS Standard will confuse cattle producers as they readily recognise the fact that there are three legitimate production systems in Australia; 100% grassfed, 100% grainfed and the middle ground, representing the majority of producers. The FPAS Standard recognises this middle ground which is for many, the most sustainable alternative. Indeed many cattle producers have been asking for years for such a means to differentiate their businesses as they cannot comply with the extreme ends of the spectrum for production or animal welfare reasons.

Ceres rejects the notion that there are similarities between;

1. The FPAS logo  ; and
2. The PCAS logo  .

The FPAS logo is based on Ceres’ own company logo  and represents the head of an animal only with a head of grain and stylised hills. It is represented in a teal colour. The PCAS logo is a rendition of CCAs own logo and represents the entire body of the animal and stylised grass-like ticks in the body of the animal. It is represented in a brown and green colour scheme.

Further, putting aside the stylisation of the program logos, when compared side by side the Ceres and CCA logos are not at all similar. The introduction of the stylised program components to either of these logos does not result in them become more similar but rather more dissimilar.

Ceres independently contracted a designer to create this image and the designer was not supplied with any materials other than Ceres own logo to work from. The logos represent programs involving cattle. Cattle are the products certified under each standard. It is therefore entirely reasonable that cattle be depicted in some form in the FPAS logo. The fact that both logos represent cattle in a recognisable but distinguishable form is highly unlikely to lead to consumer confusion.