AUSTRALIAN FOOD SOVEREIGNTY ALLIANCE

RESPONSE TO AMENDMENTS TO THE *AGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT ACT 2013*

SUBMISSION TO THE FEBRUARY 2019 ACIL ALLEN CONSULTATION DISCUSSION PAPER

28 March 2019

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The Australian Food Sovereignty Alliance (AFSA) as a key stakeholder

The Australian Food Sovereignty Alliance (**AFSA**) is a farmer-led incorporated association made up of organisations and individuals working together towards a world in which people can create, manage, and choose their food and agriculture system. AFSA is an independent organisation and is not aligned with any political party. We have around 700 individual, organisational, business, and farm members.

As a farmer-led organisation, AFSA provides a balanced voice to represent farmers. We connect Australian farmers for farmer-to-farmer knowledge sharing, work with government for scale-appropriate and consistent regulations and standards for small-scale farming, and advocate for fair pricing for those selling to the domestic market.

We are part of a robust global network of farmer-led organisations involved in food security and food sovereignty policy development and advocacy. We are members of the International Planning Committee for Food Sovereignty (IPC), La Via Campesina – the global movement of peasant farmers, and Urgenci: the International Network for Community-Supported Agriculture, and we have strong relationships with Slow Food International and its Australian chapters. We also support the Australasian representative on the Civil Society Mechanism (CSM), which relates to the UN Committee on World Food Security (CFS).

AFSA works extensively with primary food producers and consumers across Australia. Our committee has consisted of published academics and lecturers from the University of Melbourne, RMIT, Deakin University, University of Tasmania, University of Sydney, and QUT. We have also had representation from farmers from every state, and local advocates and campaigners such as Open Food Network, Food Connect, Friends of the Earth, Regrarians, Fair Food Brisbane, and the Permaculture Network.

Our vision is to enable regenerative farming businesses to thrive. Australians increasingly care about the way their food is produced, including its social and environmental impacts. They seek out food that is grown locally and without damage to the environment.

Food produced on regenerative farms is increasingly in demand, and we believe it is critical that government heeds changing community expectations, and facilitates, supports, and encourages the growth and viability of regenerative agriculture while protecting the environment and human and animal health.

Our president Tammi Jonas, also a small-scale pastured pig and cattle farmer from Hepburn Shire, Victoria, was recently engaged to become an Industry Advisory Group member of the Regenerative Agriculture Alliance, a collaboration led by Southern Cross University (SCU) to support Australian farms, foresters and fishers by building on the foundations of the successful national Farming Together program and by leveraging SCU's existing scientific and research capabilities. The alliance brings together resources, knowledge and expertise of SCU and external partners across regenerative agriculture and primary production.

Regenerative agriculture is an approach to food and farming systems which aims to regenerate biodiversity, soil, water and nutrient cycles, economies and communities. Depending on their specific contexts, regenerative farmers will use ideas from many fields to guide their decision making. Disciplines such as permaculture, agroecology, agroforestry, restoration ecology, Keyline

design, holistic management, soil biology, natural sequence farming, indigenous farming knowledge and others are all used by regenerative managers.[1]

AFSA is dedicated to representing our members and has engaged in a number of law reform submissions, including:

1. The Victorian Planning for Sustainable Animal Industries review, where we were invited as a key stakeholder and contributed significantly to the policy planning consultations and where we met regularly with the Department of Planning, Water and Environment and the Department of Economic Development, Jobs, Roads and Transport to formulate better outcomes for scale-appropriate planning;
2. The NSW Planning Reforms to the State Environmental Planning Provisions relating to animal industries, which were heavily influenced by the Victorian planning reforms made earlier;
3. The NSW Fresh Food Parliamentary Inquiry, where we were invited as key stakeholders to the Parliamentary Inquiry held last year;
4. The Australia and EU Fair Trade Agreement negotiations held at the Department of Foreign Affairs and Trade last year, where we engaged alongside other key food stakeholders for food industries and advocacy groups across Australia and supported the development of fair, consistent, transparent and scale-appropriate trading relations between peoples and countries, in which the benefit of all peoples and the environment is paramount;
5. The Victorian Planning Provisions Land Use Terms review in 2018;
6. The Productivity Commission on the regulatory burden of PrimeSafe and other meat regulations in 2015;
7. The National Animal Welfare Standards and Guidelines Review in relation to the welfare of poultry in 2018; and
8. Many others.

AFSA supports fair, consistent, transparent and scale-appropriate regulation of food and agriculture, built in democratic consultation with the community, to ensure it is produced and distributed safely. AFSA does not support regulation that is used to prohibit access to food produced and distributed in ecologically-sound and ethical ways.

Food Sovereignty

> "Food sovereignty asserts the right of peoples to nourishing and culturally-appropriate food produced in ethical and ecologically-sound ways, and their right to collectively

[1] Farming Democracy

determine their own food and agriculture systems." (Australian Food Sovereignty Alliance)[2]

The concept, more akin to a manifesto, incorporates a wide array of political and ecological projects. Its invention is commonly attributed to members of the peasant organisation La Via Campesina in 1996. They declare that the people who produce, distribute, and consume food should be in control of the mechanisms and policies of food production and distribution.

Food sovereignty is to be distinguished from *food security* by taking the issue of access to adequate food even further and making it a subject of fundamental rights and democracy. This makes it a matter of ideology arguably more radical than the slightly vague definition of *food security* as *'access by all people at all times to enough food for an active and healthy life'* [3] . Food activist and economist Raj Patel [4] argues that, in fact, a prerequisite for food security is food sovereignty.

Response to the Discussion Paper

The Discussion Paper outlines seven points of amendment.

1. *enhancing the consistency, efficiency and transparency of agvet chemical approvals, registrations and reconsiderations through development, publication and implementation of a risk framework, to which the APVMA must have regard, and legislative amendments to align regulatory effort with chemical risk*

2. *ensuring the ongoing safety of agvet chemicals and improving the effectiveness and efficiency of then current agvet chemical reconsideration arrangements by implementing a mandatory re-approval and re-registration scheme, designed to identify any potentially problematic chemicals while minimising any negative impacts on affected businesses*

3. *improving the efficiency and effectiveness of assessment processes for agvet chemicals applications for approval, registration and variation, and improving the timeliness of agvet chemical approvals, registrations and reconsiderations*

4. *improving the ability of the APVMA to enforce compliance with its regulatory decisions by providing the APVMA with a graduated range of compliance enforcement powers and introducing a power to apply statutory conditions to registrations and approvals*

5. *improving consistency in data protection provisions and removing disincentives for industry to provide data in support of ongoing registration of agricultural and veterinary chemicals*
6. *addressing perceptions of a conflict of interest by providing for an agency other than the APVMA to collect the chemical products levy, should it be cost effective to do so*

2 Australian Food Sovereignty Alliance, About, http://afsa.org.au/about/.

3 FAO, World Summit on Food Security. Declaration of the World Summit on Food Security (Rome: Food and Agricultural Organisation of the United Nations, 2009), http://www.fao.org/fileadmin/templates/wsfs/Summit/Docs/Final_Declaration/WSFS09_Declaration.pdf.

4 Raj Patel, 'Food Sovereignty', *The Journal of Peasant Studies* 36, no. 3 (2009).

7. *providing greater certainty to the Australian public that agvet chemicals approved for use in Australia are safe by clarifying that the first priority of the regulatory system is the health and safety of human beings, animals and the environment.*

Operation versus implementation

We submit the APVMA Amendment Act is effectually inoperative in terms of achieving the reforms listed, with particular reference to point 7 above. The Amendments do not provide greater certainty, if any, to the Australian public that agvet chemicals approved for use are safe.

We acknowledge that this review will narrowly focus on the operation rather than the implementation of the amendments. We note that the 2017 Australian National Audit Office (ANAO) Report and the 2018 report by the House of Representatives Standing Committee on Agriculture and Water Resources already considered implementation.

Nevertheless, the scope of this review is unclear, considering that the objective of the ANAO's Report was not only to assess APVMA's implementation of reforms but also the extent to which the APVMA achieved operational efficiencies and reduced 'cost burden' on regulated entities. There is clearly some overlap between past and current reviews of the APVMA. Such staggered, narrow-focussed reviews are often inaccessible for those beyond the applicant level, in other words those who will be largely affected by regulatory reviews, such as farmers, animals and eaters. The current regulatory structure operates by restricting the scope of reviews for a particular audience. This has led to a lack of public confidence and participation in reviews relating to the APVMA. In addition, many comments made to such reviews have been limited by way of APVMA's regulatory scope going only so far as the point of sale, effectively blocking the link of causation between the harmful effects of approved chemicals and the national regulator.

The problem remains that the evidence required for this review is tailored to a corporate forum of chemical producers who can afford to pay up to (and if not more than) $96, 135 in fees for approval, registration and product labelling.[5] Their funding and research is the basis of APVMA's operation. More consultation should be open to members of the public and users of the system in order to improve the operation of laws relating to APVMA and to protect the health of humans, animals and the environment.

[5] We note that our submission does not advocate for lowered costs but makes the case that the National Registration Scheme was not designed for approving sustainable alternatives and therefore viable alternatives lack competitive advantage over mainstream harmful chemicals and organophosphates.

While we appreciated the opportunity to submit a response to the more accessible review on APVMA's independence last year, in this review our evidence as stakeholders is limited because we do not engage directly with the National Registration Scheme for agricultural and veterinary chemicals (agvet chemicals).

There are certain operational intricacies of the APVMA's effectiveness, for example notifiable and prescribed variations, that we cannot comment on for this reason. For the purposes of this inquiry, we focus our comments on the inefficiencies of the operation of the Amendments in particular to point 7.

Recommendation

In the interests of regulatory improvement, make reviews of the APVMA more accessible to the Australian public in order to progress the operation of the Amendment Act.

Discussion Point 7: "providing greater certainty to the Australian public that agvet chemicals approved for use in Australia are safe by clarifying that the first priority of the regulatory system is the health and safety of human beings, animals and the environment."

Greater certainty to the Australian public as to the safety of agvet chemicals can be achieved by entitling the Australian public to:

1. complete and guaranteed certainty, rather than "greater certainty"; and
2. clearer regulatory intentions shown in the Amendments where the first priority of the regulatory system is the health and safety of human beings, animals and the environment.

The above guarantee and priority have not been shown by the Amendments in operative terms and in a number of ways as outlined below.

Section 2 of the Amendment Act prescribes changes to section 1 of the Code set out in the Schedule, inserting at section 1A how the Code is to be implemented. First, the Code recognises that:

(a) the furthering of trade and commerce between Australia and places outside Australia; and

(b) the present and future economic viability and competitiveness of primary industry which relies on access to chemical products and their constituents; and

(c) a domestic industry for manufacturing and formulating chemical products and their constituents;

are essential for the well-being of the economy and require a system for regulating chemical products and their constituents that is cost effective, efficient, predictable, adaptive and responsive.

Second, and somewhat supplementary to section 1A(a) to (c), the Amendments require at section 2 for the Code to be implemented in a manner that:

(a) recognises that ***the health and safety of human beings, animals and the environment is the first priority of the system for regulating chemical products and their constituents, in part to ensure that the use of chemical products at the present time will not impair the prospects of future generations****; and*

(b) reflects established best-practice principles for the assessment and management of risk, based on science; and

(c) balances regulatory effort and any burden imposed by the system of regulation on:

(i) holders of approvals, registrations, permits and licences; and

(ii) the domestic industry for manufacturing and formulating chemical products and their constituents; and

(iii) the users of chemical products;

with the risk of the use of the products and constituents to the health and safety of human beings, animals and the environment; and

(d) ***recognises that the use of chemical products that pose unmanageable risks to the health and safety of human beings, animals and the environment is not appropriate in Australia****; and*

(e) promotes community confidence in the regulation of chemical products and their constituents, is open and accountable, and gives opportunity for public involvement and participation; and

(f) secures compliance with this Code through appropriate, proportionate, consistent and effective compliance and enforcement measures.

Our interpretation of the above presents the following inconsistencies between the intent of the Amendment Act and the operation of its sections:

1. As a stated first priority amendment, the health and safety of human beings, animals and the environment should be placed first, ahead of all other implementation objectives of the Amendment Act. In terms of legislative interpretation, it would be inconsistent for this amendment to be ordered after section 1(a) (b) and (c). Section 2(a) should be placed first to demonstrate the intent to prioritise health and safety in operation.

2. The Amendment Act to date has failed to provide an opportunity for public involvement and participation for the reasons outlined under Operations versus Implementation

above, and further as shown by the disempowerment of lobby groups seeking stricter regulation of agvet chemicals applied on farms and as residues on food.

ACIL Allen further entrenches the failing operation of the Amendment Act by listing point 7 of ACIL Allen's Discussion Paper last. By listing this point last in the Discussion Paper, ACIL Allen makes the impression that health and safety is more an addendum to the Amendments than a first priority. Listing this amendment last sends a message that the APVMA's activities promote environment benefits or "friendliness", but this portrayal is unsubstantiated and misleading.[6]

We submit that the construction of this amendment is obscure and doubtful. The use of the word 'clarifying' infers that the purpose of the amendment is to prioritise health and safety despite evidence to the contrary. This year, the United Nations released a report on The State of the World's Biodiversity for Food and Agriculture, highlighting the urgent need for changes in land and water use and management, especially in regards to the over-use of pesticides. This report offers strong evidence was to why Australia should transition away from intensive agricultural inputs.

The report references documented evidence presented by the Food and Agriculture Organisation (FAO) on the unintended negative impacts of pesticide on soil biodiversity, and the urgent need to reduce "technology used to control pests, weeds or diseases that is toxic to non-target organisms and is a potential threat to associated biodiversity." Eliminating the application of pesticides and engaging integrated pest management is listed as a potential measure to promote biodiversity and improve pollination.

According to this report, a main driver of biodiversity loss is the "[m]ismanaged, excessive or inappropriate use of external inputs (overapplication of fertiliser and pesticides, excessive use of antibiotics or hormones, nutrient loading, including from use of imported feed, ocean acidification, CO2 fertilization, chemical and particulate pollutants, etc.)".

As such, we suggest that the amendment read as follows:

> *"providing absolute certainty to the Australian public that agvet chemicals approved for use in Australia are safe by ensuring that the first priority of the regulatory system is the health and safety of human beings, animals and the environment."*

[6] Such unsubstantiated and deceptive claims are otherwise known as "greenwashing".

The operation of amendments relating to health and safety should not be a "clarification" but rather set a clear objectives to safeguard the health and safety of human beings, animals and the environment. To use the term "clarification" assumes that the status quo guarantees health and safety which is not necessarily the case.

We seek certainty and a guarantee that the status quo of agvet chemical regulation will channel its focus less on the effectiveness of chemicals and more consistently on protecting health and safety. To the contrary, the Amendment Act outlines the need to "balance" health and safety of human beings, animals and the environment with "any burden imposed on the system of regulation". AFSA strongly rejects the notion that a regulatory system designed to regulate harmful and potentially lethal chemicals should orchestrate such a balancing act. The core purpose of a regulatory system ought to be its primary users and beneficiaries including humans, animals and the environment, without which the agvet chemical system would be of no use to the Australian public.

In order for amendments relating to health and safety to operate successfully, the Amendment Act must make clearer standards in the interests of statutory interpretation and the health of living beings and biodiversity, which will in turn lead to the improvement of APVMA's regulatory culture and its public perception.

The amendment can only be truly 'operational' if it is put into operation and use. How the amendments are defined in terms of a specific, accessible process should be consistent and clear. Objectives and following sections of the Amendment Act will ultimately define the terms of APVMA's processes. Such operational sections of the Act should have an undisputed practical application.

Without observable changes in the APVMA's regulatory functions, the current expression of the amendments are abstract and in no concrete terms provide a means to test or measure the operation of the amendments. Instead, the Amendments preserve the prioritised "effectiveness" and "timeliness" of the APVMA's functions with no mention of providing direct benefit to the consumers of the National Registration Scheme (i.e. farmers) and its beneficiaries (i.e. the Australian public).

The Amendment Act has failed to address underlying flaws in the agvet regulatory system, namely:

- failing to provide accountability to every link in the production chain / food system affected by agvet chemicals, including farmers, eaters, farmworkers, animals, and processors;
- failing to observe the entire food chain in its operational processes (the APVMA is only legislated to approve, register and label agvet products up until the point of sale);
- being limited in scope to see beyond technical / technocratic solutions to agriculture and to prioritise health, economic and legal aspects;
- aggravating environmental degradation and deteriorating soil health;
- failing to recognise low external input farming methods[7] proven to improve biodiversity which sustains the genetic resource base of both crops and animals while improving the chances for natural control of pests and diseases. Biodiversity regenerates the system, improves productivity and the agroecological system's sustainability; and
- failing to provide a pathway for the legal use of commonly available safe substances as substitutes for synthetic agvet chemicals.

Guaranteeing the Protection of Farmer Health

In its submission to the inquiry regarding APVMA's independence last year, Maurice Blackburn, a well-known plaintiff law firm, highlighted what they believe to be core priorities and areas of focus that the APVMA should adopt, based on their experiences with those impacted by pesticides and related chemicals as part of their work.

In their submission they stated:

> *"…genuine care for workers extends further than merely approving a substance as safe to use."*

The need to guarantee health among the population of Australian farmers is evident in their submission:

"Maurice Blackburn asks the Committee to accept the following recommendations:

1. *That APVMA should be required to prioritise farmer's health (and prevent disease) over any perceived productivity gains when approving the use of pesticides and chemicals.*

[7] *Low-external-input farming reduces as much as possible the use of external inputs like pesticides, herbicides and synthetic fertilizers and replaces them with internal inputs. The basic principle is that farming is seen as both agro- and ecosystem management. The farmer is managing a farm with coherent diversity. The important concepts are diversification of both crops and animals, crop rotation, and organic matter cycles. Low-external-input agriculture does not prohibit synthetic inputs. It's just that when the principles are applied, the need for synthetics disappears. Techniques vary from the use of traditional knowledge to use of modem bacterial herbicides and insecticides which replace their synthetic equivalents. Mixed cropping, green manuring, composting, use of local organic materials, reduced tillage and biodynamic preparations are also included. These things are little more than common sense*. - ***Boudewijn van Elzakker, International Federation of Organic Agriculture Movements (IFOAM)***

2. *This is particularly so when considering the approval of the 'off-label' use of pesticides such as organophosphates. These are chemicals which are ordinarily banned for use by the community at large but have, nevertheless, been approved by the APVMA for certain farming activities.*
3. *That the APVMA should mandate the provision of education and training of farmers in relation to the world's best practice in the safe use of all pesticides. Maurice Blackburn believes that farmers should need to obtain accreditation from the APVMA in this regard, which should be regularly renewed every 2 or 3 years.*
4. *That the APVMA should mandate the regular and consistent health testing of all farmers who are using pesticides and chemicals, to ensure that at risk farmers are identified.*
5. *Recommendations 2 and 3 above are in parallel to the recent changes introduced in the coal mining industry via the Coal Worker Medical scheme.*
6. *That the APVMA should impose heavy financial penalties for those farm owners who fail to adhere to basic standards in the safe use of pesticides and chemicals. Maurice Blackburn also notes the current focus on preventing industrial deaths, both at the federal level and in several state/territory jurisdictions. We have consistently advocated that death resulting from exposure to an industrial illness that reasonably could have been prevented, should be perceived as industrial manslaughter. Holding employers accountable through heavy financial penalties or criminal sanctions would provide an additional level of deterrence."*

The National Centre for Farmer Health , a centre which aims to improve the health, safety, and wellbeing of farmers, their families and communities, provided blood tests for farmers in order to reduce the effect of exposure to organophosphates. The Centre bases their work on a growing body of evidence pointed towards the detrimental health impacts on farmers who are often unaware of the safety precaution necessary and best practice for handling approved chemicals on the market. Many of whom have been detected for exposure during the Centre's tracking study.

Recommendation
We recommend the Amendment Act guarantee farmer health by ensuring that APVMA be made to regulate for health and safety as early prevention method against pesticide-associated health issues. ACIL Allen should refer to the above recommendations by Maurice Blackburn and should engage more public participation by farmers so to meet the Amendment Act's requirements at section 1(2)(e) of the Amendment Act.

Guaranteeing a Sound Safety Criteria

Sections 4 and 27 of the Amendment Act are instructive as to the operation of the Amendments. Section 4 requires replacement of subsection 3(1) of the Code set out in the schedule, where "safety criteria and trade criteria" is added to the definition of 'adequate'.

Section 27 directs further changes to the Code by inserting a definition of "meets the safety criteria" at section 5A:

5A Definition of meets the safety criteria

(1) An active constituent or chemical product meets the safety criteria if *use of the constituent or product, in accordance with any instructions approved, or to be approved, by the APVMA for the constituent or product or contained in an established standard:*

(a) is not, or would not be, an undue hazard to the safety of people exposed to it during its handling or people using anything containing its residues; and

(b) is not, or would not be, likely to have an effect that is harmful to human beings; and

(c) is not, or would not be, likely to have an unintended effect that is harmful to animals, plants or things or to the environment.

(2) For the purposes of being satisfied as to whether an active constituent meets the safety criteria, the APVMA:

(a) must have regard to the following:

(i) the toxicity of the constituent and its residues, including metabolites and degradation products, in relation to relevant organisms and ecosystems, including human beings;

(ii) the method by which the constituent is, or is proposed to be, manufactured;

(iii) the extent to which the constituent will contain impurities;

(iv) whether an analysis of the chemical composition of the constituent has been carried out and, if so, the results of the analysis;

(v) any conditions to which its approval is, or would be, subject;

(vi) any relevant particulars that are, or would be, entered in the Record for the constituent;

(via) whether the constituent conforms, or would conform, to any standard made for the constituent under section 6E to the extent that the standard relates to matters covered by subsection (1);

(vii) any matters prescribed by the regulations; and

(b) may have regard to such other matters as it thinks relevant.

(3) For the purposes of being satisfied as to whether a chemical product meets the safety criteria, the APVMA:

(a) must have regard to the following:

(i) the toxicity of the product and its residues, including metabolites and degradation products, in relation to relevant organisms and ecosystems, including human beings;

(ii) the relevant poison classification of the product under the law in force in this jurisdiction;

(iii) how the product is formulated;

(iv) the composition and form of the constituents of the product;

(v) any conditions to which its registration is, or would be, subject;

(vi) any relevant particulars that are, or would be, entered in the Register for the product;

(via) whether the product conforms, or would conform, to any standard made for the product under section 6E to the extent that the standard relates to matters covered by subsection (1);

(vii) any matters prescribed by the regulations; and

(b) may have regard to one or more of the following:

(i) the acceptable daily intake of each constituent contained in the product;

(ii) any dietary exposure assessment prepared under subsection 82(4) of the Food Standards Australia New Zealand Act 1991 as a result of any proposed variation notified under subsection 82(3) of that Act in relation to the product, and any comments on the assessment given to the APVMA under subsection 82(4) of that Act;

(iii) whether any trials or laboratory experiments have been carried out to determine the residues of the product and, if so, the results of those trials or experiments and whether those results show that the residues of the product will not be greater than limits that the APVMA has approved or approves;

(iv) the stability of the product;

(v) the specifications for containers for the product;

(vi) such other matters as it thinks relevant.

In operative terms, the criteria for safety as set by the Amendment Act is weakened by the use of the words "*is not, or would not be, likely to have an effect"* and similar expressions. This standard does not soundly guarantee that the health and safety of humans, animals and the environment are guaranteed as first priority.

Instead, the APVMA not only have overarching discretion to set the safety criteria and establish standards for the safe use of a product or active constituent by way of approved instruction. Such instructions are known to be ignored by farmers and users of agvet chemicals in times of perceived necessity, to their detriment and as an example of the failure of the regulatory system

to fulfil its obligation to educate. APVMA's discretion is widened further by sections 5A(2)(b) and 5A(3)(b)(vi) which allow the APVMA to consider *any other matters it thinks relevant* which may or may not include the stated priority to enter into domestic and international trade markets, increase trade, increase sales and reduce "burden" on the regulatory system.

Acceptable Daily Intake (ADI) of constituents in products and dietary exposure assessments prepared by FSANZ are increasingly losing credibility due to the rising concerns for pesticides occurring in foods and drinks. Residues have led to adverse health effects and therefore quantified ADIs represent a failure of the APVMA to guarantee safety for humans, animals and the environment.

These rising concerns are due to a plethora of reasons, including but not limited to:

1. The evolving field of risk assessment on residues of agvet chemicals in food and growing concern about the development of anti-microbial resistance;[8]

2. The reluctance from industry to uptake more appropriate approaches to risk assessment in the form of health-based guidance values (i.e. safe exposure levels) for residues, such as that produced by the FAO/World Health Organisation Expert Committee on Food Additives;

3. A failure to link scientific knowledge to statements meaningful to eaters of foods containing residues and users of the agvet chemicals;

4. Blind trust in regulatory mechanisms purportedly set up for human health and safety. Most members of the Australian public remain unaware of the risks of agvet chemicals to their bodies, food systems and biodiversity. Largely, members of the public would not find the regulatory system accessible or meaningful; and

5. Rising interests in scientific innovation and technological solutions to farming in spite of more resilient answers to food and farming related crises such as regenerative agriculture and agroecology.

[8] Alan Boobis, Carl Cerniglia, Alan Chicoine, Vittorio Fattori, Markus Lipp, Rainer Reuss, Philippe Verger & Angelika Tritscher (2017) Characterizing chronic and acute health risks of residues of veterinary drugs in food: latest methodological developments by the joint FAO/WHO expert committee on food additives, Critical Reviews in Toxicology, 47:10, 889-903, DOI: 10.1080/10408444.2017.1340259

AFSA believes that agroecology should be the first strategy for managing undesirable pests, diseases, and weeds. AFSA does not support the continued use of products shown or suspected to have negative impacts on eaters, users, or the environment.

Regulators should take a precautionary approach to residue limits, particularly with regard to unknown synergistic interactions between multiple residues present in food. We also support regular independent reviews of registered chemicals. We endorse an environment and culture of independence within regulatory bodies relating to agvet chemicals.

Recommendation
That the APVMA guarantee safety by way of stronger legislated safety criteria updated by more appropriate, accurate and precautionary measures of risk and by independent science. The Amendment Act should ensure no likelihood of harm or unintended harm posed by approved, registered and labelled products.

Other matters relevant

ACIL Allen clarified that the points in the Discussion Paper are a mere guide and that stakeholders may raise other matters relating to the operation of the amendments. AFSA takes this opportunity to make commentary on what our members want to see in the Amendment Act.

The Chemical Re-approval and Re-consideration Process

We note that the Amendment Act at Division 4 relates to reconsidering approvals and registrations. At section 46, the Code is to set out at section 30 an explanation of Division 4 within a new section, section 29L:

(1) This Division provides for reconsideration of approvals and registrations.

(2) The APVMA <u>may</u> invite proposals for reconsideration (section 30), and the APVMA may reconsider an approval or registration at any time (section 31).

(3) Before reconsidering an approval or registration, the APVMA must prepare a work plan (section 31), notify the holder and invite the holder to make a written submission on the reconsideration. The holder will also be required to give the APVMA information relevant to the reconsideration (section 32).

(4) The APVMA <u>may</u> inform any person that the APVMA proposes to reconsider, or is reconsidering, the approval or registration and invite written submissions (section 32).

(5) The APVMA <u>may</u> require the holder to conduct trials or experiments or provide information or samples for the purposes of the reconsideration (section 33).

AFSA notes the operation of this Amendment permits that the APVMA "may" reconsider active constituents and approved products. The reconsideration and re-approval process is thus optional rather than compulsory as intended by the Amendments. We reject such a discretion to be left to a regulatory body which has been shown to have problematic regulatory culture and has failed to guarantee health and safety of farmers, domestic and non-domesticated animals, farmland and the biodiversity of Australia.

ACIL Allen and the Department ought to refer to the many countries where reconsideration processes have led to the ban of pesticides. For example this review should refer to a list by Baum Hedlund Aristei and Goldman Law in the US of countries that have issued outright bans on glyphosate, imposed restrictions or have issued statements of intention to ban or restrict glyphosate-based herbicides.[9]

Recommendation
Reinstate the Chemical Re-approval and Re-registration Scheme in order to implement a rigorous and precautionary process for reviewing latest scientific data on the safety of all agvet chemicals, every 15 years (as is required in the US and EU). This scheme was introduced by the Gillard government, but was repealed by the *Agricultural and Veterinary Chemicals Legislation Amendment (Removing Re-approval and Re-registration) Bill 2014.* We oppose APVMA's government-funded business project to fast-track or streamline APVMA's assessment process for selected applications. [10]

Final points

Our submission has outlined the need for the Amendment Act to re-organise the Code appropriately and according to its stated priority to health and safety. We reinforce that from our observations and as a number of our members are applicants and users of regulated products, APVMA has not provided certainty for health and safety because of current threats to crop protection, the farming sector, communities, animal health, and biodiversity, and therefore to Australia's food sovereignty.

The operation of the Amendment Act affects all users and beneficiaries' rights to food sovereignty, to a clean and healthy environment and to prior informed consent in relation to our food. As a

[9] https://www.baumhedlundlaw.com/toxic-tort-law/monsanto-roundup-lawsuit/where-is-glyphosate-banned/

10 Self-pack applications may be eligible for fast-tracking, as supported and funded by the Australian Government's Agricultural Competitiveness White Paper .

result of the evident problems within the Amendment Act, we expect there will be flow-on effects to other rights in the area of workers compensation, private nuisance, negligence, trespass (due to spray drift issues), state pesticide laws, council regulations and planning law.

Farmers want the regulatory system to promote their health and safety as a first priority and to demonstrate this intent. The health and safety of farmers is instead disrupted and inhibited by the operative elements of APVMA.

The scope of the review is limited and hinders critical reflection on the broader social, economic and environmental impacts of agvet chemical approval. At the same time, the system is contested and controversial, and no government seems able to demonstrate the will to take the "risk" of overhauling the agvet regulatory system.

In light of the challenges to engage meaningfully in this submission process, AFSA thanks the Department of Agriculture and Water Resources for initiating this Review and for the opportunity to make submissions to the Discussion Paper by ACIL Allen Consulting (ACIL Allen). We look forward to ACIL Allen's written report for the Minister for Agriculture and Water Resources for tabling in Parliament.