



# AUSTRALIAN FOOD SOVEREIGNTY ALLIANCE

**Comments on the FSANZ Review of Food Standards Code  
(Chapters 3 and 4 - Food Safety Management Requirements)**

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## About the Australian Food Sovereignty Alliance (AFSA)

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

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

We are part of a robust global network of civil society organisations involved in food sovereignty and food security 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 work regularly with Slow Food International and many of 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).

Our vision is to enable regenerative and agroecological farming businesses to thrive. Australians care now more than ever about the way their food is produced, including its social and environmental impacts. Food produced on small- and medium-scale regenerative farms is increasingly in demand, and government is bound to heed changing community expectations and facilitate and encourage the growth and viability of regenerative agriculture, thereby protecting the environment and human and animal health.

As a key stakeholder and representative body of small- and medium-scale producers Australia-wide, AFSA is appreciative of the opportunity to participate in this round of public consultation and looks forward to participating in the second round as anticipated by FSANZ.

We do not seek to make comment on the Food Service aspect of FSANZ's Review of Food Standards Code (Chapters 3 and 4 – Food Safety Management Requirements).

## Context

On 3 May 2019, Food Standards Australia New Zealand (**FSANZ**) released an information paper (the **Information Paper**) on its proposed approach to a review of food safety standards in the Food Standards Code (the **Review**).

The intention is to create a consistent and up-to-date approach to food safety management with regard to so-called “high-risk horticulture,” which includes a list of leafy green vegetables, melons, berries, sprouts, and ready-to-eat minimally processed fruits and vegetables. In light of the 2018 listeria outbreak in rockmelons produced at Rombola Family Farms in Nericon NSW, the timing of the Review is unsurprising. However, reactive regulation is often ineffective at achieving its stated aims, and can create a spiral of perverse outcomes as many caught up in new regulations are not the intended targets.

A variety of food safety measures are already in place to mitigate the risks of listeria, salmonella, campylobacter and other pathogens, and all Australian producers identified as responsible for the outbreaks used as justification for the proposed Review have quality assurance (QA) and traceability arrangements in place.<sup>1</sup> In FSANZ’s 2011 Review, the question was posed as to whether existing industry programs are sufficient to manage food safety risks or whether regulation may be more appropriate.

FSANZ abandoned its earlier pursuit of increased regulation in 2014, stating: ‘Microbiological data available from Australian surveys suggests a low level of contamination of fruits and vegetables in the Australian supply chain, although infrequent contamination with pathogenic microorganisms can occur. **The available evidence provides a high degree of confidence that Australians have access to safe fresh produce.**’ (FSANZ, Abandonment – Proposal P1015, 21/02/14)

FSANZ further outlined its rationale for abandoning a path to increased regulation:

*The case for regulation as a tool to ensure those businesses not operating under an industry scheme are implementing preventative controls (i.e. option 1) is difficult to assess for a number of reasons:*

- *lack of data attributing foodborne illness to horticultural produce grown by those businesses;*
- *lack of data on the nature of these operations;*
- *complexity of the supply chain;*
- *implementation and enforcement issues.*

*Understanding the current food safety culture of these operations and what their needs are should be determined before further regulation is considered. This can be progressed through a collaborative approach between the horticulture industry and government so that targeted guidance, codes of practice, education materials and training can be developed and disseminated where needed. (FSANZ, Abandonment*

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<sup>1</sup> Proposal P1015 Review of foodborne illness associated with selected ready-to-eat fresh produce (December 2011) Supporting Document

– Proposal P1015, 21/02/14)

However, in spite of the 2014 findings and assurances of public safety from Australian horticulture, ‘FSANZ has now been asked to reconsider that finding and to investigate whether the non-regulatory efforts of industry and regulators require supplementation through regulation that adds to the basic requirement that food for sale must be safe and suitable.’

Strengthening consistency in food safety management and traceability throughout the food supply chain is the stated objective of this Review. Appropriate controls may be better found by asking the right questions, including but not limited to:

- Are there weaknesses in the QA programs that audit produce sold through the supermarkets where contaminated produce has been sold?
- Will a national, mandatory regime for food safety effectively achieve a better result than current Freshcare and other supermarket food quality regimes?
- What are the links between pathogens and large-scale industrial farms or monocultures?
- What are the links between pathogens and small-scale agroecological farms?
- What proportion of those people affected by outbreaks have been immunocompromised or in a similar high risk demographic? What other public health measures can be implemented to prevent foodborne illness in vulnerable populations?

While it is currently beyond the scope of this proposed Review, how many people are made ill by fresh produce as compared with highly processed foods, allergens in foods, food additives, or chemical or active constituent residues? Is the risk of salmonella and campylobacter from fresh horticultural products the highest priority for better protection of public health?

From what can be compiled via publicly available FSANZ Food Incidents and Food Recalls websites, it is apparent that neither contains any incidents or recalls connected to small-scale agroecological farms. Our submission seeks to demystify the source and true cause of food safety management failures with a view to determine the correct regulatory approach (if any) necessary to resolve the failures. Our submission further seeks to put this Review in the scheme of the broader context of food sovereignty, which asserts everyone’s right to access culturally-appropriate and nutritious food produced and distributed in ethical and ecologically-sound ways, and our right to democratically participate in the food and agriculture system.

The Information Paper rings alarm bells for Australia’s many small-scale market gardeners. These small, diversified farms that are typically reliant on very few (if any) chemical inputs are vital to localised markets and urban, regional food bowls.<sup>2</sup> The key concern for them is whether increased regulation of large-scale industrial horticulture would also apply to their low-risk farming systems, most of which have traceability built into their direct-to-consumer sales models.

The proposed Primary Production and Processing Standard (the **Proposed Standard**) would appear to also amount to prohibitions on food sharing arrangements such as non-commercial farm-to-farm produce swaps. Further, such a standard would threaten the viability of small-scale farms while industrial-scale horticulture farms will continue business-as-usual under existing food safety QA

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<sup>2</sup> For more information about regulating for resilient, equitable food systems and food bowls, FSANZ should refer to the work of FoodPrint Melbourne. <https://research.unimelb.edu.au/foodprint-melbourne/home>

programs.

More broadly, the *Foodborne Illness Reduction Strategy 2018-21+* (the **Strategy**) relevant to the Review did not recommend pursuing the earlier proposal to increase regulation of high-risk horticulture products, but instead focused on the much higher risks in poultry and eggs. This leaves us wondering what triggered the renewed focus on horticulture instead of poultry and eggs?

The way in which finalised food standards become law under the FSANZ Act precludes consultation to one isolated step of the process. Afterwards, only government agencies, the applicant, FSANZ Board, Forum Members and finally Ministers are able to influence decisions.<sup>3</sup>

The newly adopted UN Declaration on the Rights of Peasants and Other People Working in Rural Areas asserts the right of small-scale farmers to participate in ‘decision-making processes on food and agriculture policy’ (UNDROP, Article 15.4). As stakeholders and representatives of farmers and eaters, we seek further engagement in the making of new standards or major variations which can become law.

## Recommendations

<b>Recommendation 1</b>	The development of a mandatory Primary Production and Processing Standard for “high-risk” horticulture (the <b>Proposed Standard</b> ) is unacceptable. This process should be halted and substituted by an engaging, transparent and participatory approach which identifies the current priority needs of horticulture farmers, and which uses measures already available in the food regulatory system to prevent outbreaks.
<b>Recommendation 2</b>	Any <b>risk-management measures</b> considered should target the known source of outbreaks, namely large-scale, intensive operations and sections of the processing industry engaged in the export and import of horticultural products. Appropriate assessments of relationship between scale, production methods, and risk should be a priority.
<b>Recommendation 3</b>	The Office of the Commissioner for Better Regulation (OCBR), including the Red Tape Unit, and similar commissioners or authorities of all States and Territories should be notified of this Review to provide practical advice and support to the Government on the impacts of regulatory burden on agriculture. This can be done through the Regulatory Impact Assessment (RIS) and Legislative Impact Assessment (LIA) processes.
<b>Recommendation 4</b>	FSANZ’s rushed attempt to commence a <b>major assessment procedure by mid-2019</b> should be slowed to set a measured pace to allow for a comprehensive and effective regulatory response, inclusive of broad consultation with farmers at all scales and their representative bodies.

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<sup>3</sup> <https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/making-food-standards>

<b>Recommendation 5</b>	<p>That the <b>drafting</b> stage of such a Review be put on hold until the required steps are taken to:</p> <ol style="list-style-type: none"> <li>1. Consult with producers with regard to the cost and administrative impact of any of FZANZ's proposals;</li> <li>2. Identify and improve any current regulatory and non-regulatory measures that can be improved, rather than adding more costly and burdensome steps for producers and processors;</li> <li>3. Provide the expected assurances to low-risk producers that there will be exemptions that apply to them should any new regulatory measures be put in place.</li> </ol>
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## Key issues

### The case given for increased regulation is extremely weak

We refuse to accept new regulation of 'high-risk horticulture' as there is patently no case justifying it.

The Information Paper states that *since 2014, there have been several food incidents involving fresh produce in Australia:*

- Hepatitis A in frozen berries (2015)*
- Salmonella in pre-packed lettuce (2016)*
- Salmonella in mung bean sprouts (2016)*
- Salmonella in rockmelons (2016)*
- Hepatitis A in frozen berries (2017)*
- Listeria monocytogenes in rockmelons (2018)*
- Hepatitis A in pomegranate arils (2018)*

The outbreaks listed to justify increasing regulation are totally insufficient to warrant the proposal.

Totalling seven since 2014, **three outbreaks were from imported frozen products** (berries and pomegranate). Increasing regulatory burden on Australian farmers will not decrease the risk of foodborne illness from imported product.

The **outbreak caused by mung bean sprouts was already covered by existing codes**, and should not be used to justify regulating an unregulated sector.

This leaves just three outbreaks to justify increasing regulation: one in packaged lettuce and two in rockmelon, **all of which were produced in accordance with third-party audited food safety programs.**

**Effectively, there have been zero outbreaks identified by FSANZ since 2014 that could have been prevented by mandatory regulation of horticulture.**

**TABLE: Available data on sources of recent outbreaks**

PRODUCE	CONTEXT			PATHOGEN
	Farm	Import / Domestic	Market / QA Program	
<b>Frozen berries</b>	Large company, Creative Gourmet's Mixed Berries, supplied by Entyce Foods	Strawberries, raspberries and blackberries from China, blueberries from Canada. Berries packaged in China, shipped and repackaged in Australia	IGA, Foodworks, SPAR etc.	Hep A
<b>Pre-packed lettuce</b>	Tripod Farmers, mass production monoculture	Domestic sales to companies e.g. Lite N Easy	Coles and Woolworths	Rare anatum strain of salmonella
<b>Mung bean sprouts</b>	Star Tu at Thebarton, SA * under the label Sunshine Sprouts	Domestic sales, Chinese-owned company	SA and NT supermarkets	Salmonella
<b>Rockmelons</b>	Red Dirt Rockmelons & Rombola Farm	Domestic	Coles and Woolworths	Listeria Salmonella
<b>Pomegranate arils</b>	Creative Gourmet (Entyce Food Ingredients Pty Ltd)	Sourced from Egypt	All major supermarkets	Hep A

The outbreaks come from food produced in intensive monocultures that subsequently travels through long supply chains.

The misconceptions about foodborne illness and its causes are widespread. In fact, only four percent of all food-borne outbreaks reported in Australia from 2001 to 2005 were attributed to fresh produce.<sup>4</sup>

### Lack of support from the industry

The attempt to implement Standard in 2014 was abandoned, and at the time there was “no uniform

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<sup>4</sup> Marilyn C. Erickson and Michael P. Doyle. Improving Food Safety Through a One Health Approach: Workshop Summary.  
<https://www.ncbi.nlm.nih.gov/books/NBK114507/>

support for developing a Standard” at that stage.<sup>5</sup> (see **Proposal P1015 - Primary Production & Processing Standard for Horticulture, the members of the Horticulture Group**. The Victorian Farmers’ Markets Association (VFMA) pointed out the negative impacts such regulation would have on their members, small- to medium-scale farmers selling directly through farmers’ markets. They urged FSANZ to adopt the option to increase education of producers and consumers, offering to assist with these efforts.

Submission of the Victoria Farmers’ Market Association excerpts:

Producers are strongly united in the view that additional regulation placed on their businesses would not prevent food borne illness. Rather, it would simply add to their administrative workload and would change little if any of their current practices. Producers would be happy to receive guidelines and information that would help them identify and further manage risks, but they do not have the resources to meet additional regulatory requirements.

#### **Suggested alternatives**

There were further suggestions of approaches that could help support the FSANZ effort to improve food safety for fresh horticultural produce:

- Consumer education – farmers’ market producers are constantly discussing their produce with customers and are astounded at the number of people buying produce and not washing it before eating. Consumers are often unaware of the need to wash produce, and this is particularly important for products that are not able to be effectively cleaned before sale – such as leeks, heading lettuce varieties, and some brassicas.
- Providing guidelines for producers including treatment of manure fertilizers, washing procedures and water quality. This needs to be guided, not regulated.

The VFMA can play a significant role by providing information to producers, market managers as well as to farmers’ market shoppers about their respective role in ensuring food safety.

The VFMA is also a vital reference point for any issues affecting the horticultural industry – and particularly where small growers are potentially impacted.

#### **Conclusion**

A regulatory approach to improving food safety for fresh horticultural produce would be detrimental to many businesses in the farmers’ market sector. Strategies including consumer information and guidelines for producers are suggested. The VFMA should be kept involved as an industry reference and communication point throughout the development of this initiative.

AFSA supports VFMA’s 2014 conclusion and also offers our assistance as a small- to medium-scale industry reference and communication point.

### **Increased regulation would reduce access to fresh, local fruit and vegetables to the detriment of public health**

The public health system in Australia is under pressure due to an epidemic of diet-related disease. One of the most important ways to counter the effects of poor dietary options is to ensure the public have access to high-quality fresh vegetables and fruits. Requiring every enterprise that produces vegetables to have a licence will make such enterprises as urban micro farms, community-supported

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<sup>5</sup> <http://www.foodstandards.gov.au/code/primaryproduction/horticulture/Pages/default.aspx>

agriculture, food buyers' groups, farmers' markets, and foodbanks more difficult to start and harder to run.

According to the IBISWorld *Fruit and Vegetable Processing - Australia Market Research Report*, domestic demand for processed fruit and vegetables has trended down in recent years, and Australian fruit and vegetable processors are forecast to face greater regulatory restraints.<sup>6</sup>

As a signatory to the United Nations (UN) Covenant on Economic, Social and Cultural Rights, Australia is bound to ensure the full enjoyment of the universal human rights it outlines, include the right to adequate food.<sup>7</sup> That obligation includes *respecting, protecting, facilitating* and *providing* access to adequate food to ensure food security and healthy livelihoods.<sup>8</sup>

Australia is currently behind on providing access to fresh food to Australians. Indeed, the Department of Agriculture has set out a number of aspirational agricultural and food policies and has set up numerous task groups in order to improve policymaking. However, major determinants of food prices along value-chains are becoming more complex in nature and connection to other factors. Increasing the burden of regulation on existing producers will only add to factors which may result in their ceasing production.

## Risk: scale matters

As stated in the Information Paper, the existing Standards do not present a consistent approach to managing risk because they provide a range of food safety management provisions depending on the sector. This inconsistency has arisen because the standards were developed iteratively over time by commodity.

As the Information Paper states, in 2011, Forum endorsed the Ministerial Policy Guideline on Food Safety Management for General Food Service and Closely Related Retail Sectors (Policy Guideline) to provide revised policy guidance for the catering sector. The 2011 guideline promotes the use of a range of food safety management options, **proportionate to risk**. Since then, the FSM WG have considered how to implement the 2011 policy guidelines, including a **tiered approach** for food safety management based on risk.

Should the Review proceed, it must assure small-scale producers that safety management options, mandatory or not, will be commensurate to risk, and acknowledge the high level of traceability in models where produce is sold directly from the farmer to consumers.

FSANZ uses a flow chart in its 2018 **Strategy** document to show the 'food chain for each commodity', which fails to capture the model of most small-scale farms. The many risk points represented in the conventional industrial supply chain are vastly reduced in small-scale farming models, most of whom sell their produce direct to consumers.

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<sup>6</sup> Ibid.

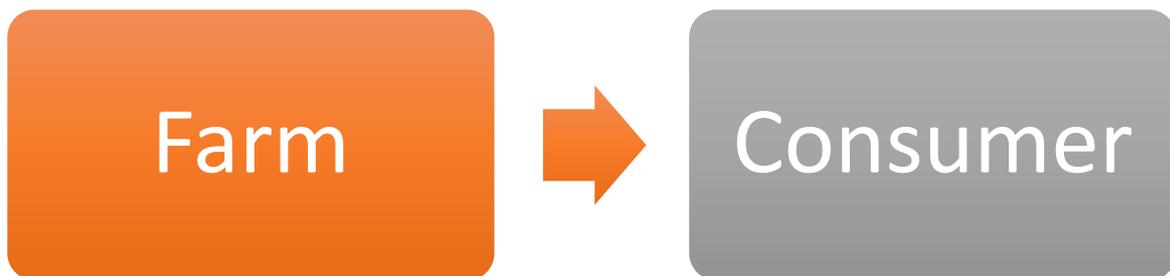
<sup>7</sup> Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

<sup>8</sup> United Nations Human Rights Office of the High Commissioner, Special Rapporteur on the Right to Food, <<http://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspx>>.

### Conventional Supply Chain for Commodities



### Small-Scale Farm Supply Chain for Food



The costs to the community of a food regulatory system that mandates a licence to sell salad would be significantly greater than any benefit. Many small farms are starting in horticulture because of the low barriers to entry. Increasing regularity barriers into horticulture production would prohibit the growing movement of young people returning to farm in small-scale agroecological ways, and in turn inhibit communities' access to fresh, local food produced in ecologically-sound systems.

The UN Declaration on the Rights of Peasants and Other People Working in Rural Areas asserts that: 'States shall take all appropriate measures to ensure that their rural development, agricultural, environmental, trade and investment policies and programmes contribute effectively to protecting and strengthening local livelihood options and to the transition to sustainable modes of agricultural production.' It further asserts that 'States shall stimulate sustainable production, including agroecological production, whenever possible, and facilitate direct farmer-to-consumer sales.' (UNDRIP, Article 16.4)

Finally, the benefits of increased regulation of horticulture would have dubious benefits as large industrial farms will continue under business-as-usual QA programs and occasional outbreaks will still occur.

### Farmers' Concerns

"Any attempt to mandate a license to sell salad will be a disaster. It will make it much harder for farmers to provide fresh food to our communities and prevent new food businesses from starting. I think there will be plenty of pushback from the general public as well."

**Ray Palmer, Farmer**  
**Symara Farm**

### **About Symara Farm**

Symara Organic Farm is a small family farm growing a large and constantly changing selection of produce. The farm is owned and operated by Ray and Samantha Palmer, a couple who are passionate about growing good food and their two young apprentices Eva and Charlie.

“In my experience, it seems that the longer and more complicated the supply chain, the less care and respect there is for the produce itself. The less care, the higher the risk of food quality and safety decreasing. There is no reason to regulate small scale growers, because they respect what they have grown, appreciate the people buying their food and have, for the most part had control over the whole process. The risk starts to appear when large scale agriculture is in question, but only because the supermarket chains don't respect the product and therefore drive down the prices. This means that the farmers get less and need to take shortcuts in order to make a living. Regulations shouldn't be with farmers, it should be with big companies that are forcing farmers to disrespect their own product.”

**Alice Star**

**Loop Growers**

### **About Loop Growers (Alice and Phil)**

“We grow food, the real stuff – straight from the soil and chockers full of nutrients. There's nothing artificial here because our produce is grown the old fashioned way – raised on blood, sweat and a whole lotta compost. It's then sold to good folk in our community who care more about what's on the inside, than what's on the out... although we do think our veggies are pretty darn cute!

Our little bio-intensive market garden, just 30km north-west of Brisbane, pumps out a wide range of chemical free, closed-loop fruit and veg that feeds our growing community of households and local businesses.”

“I grow greens and sprouts and am constantly paranoid [about regulations].

My concern is how it would be enforced. It would be great to have solid information and even training available for producers, and better guidance and guidelines around production, processing and packaging.”

**May Volp, Farmer**

**Full Circle Farm**

### **About Full Circle Farm**

Full Circle Farm is May Volp, a passionate young farmer who diverts organic waste from landfill (including commercial waste from local cafes and restaurants) through composting and sustainable

farming of leafy greens and vegetables.

## About Food Sovereignty

*“Food sovereignty asserts the right of peoples to nourishing and culturally-appropriate food produced and distributed in ecologically-sound and ethical ways, and their right to collectively determine their own food and agriculture systems.”<sup>9</sup>*

The core of food sovereignty lies in the following principles:

- Food is a human need and a basic right, rather than a commodity.
- Food systems should be democratically constructed, responding to diverse social, cultural and environmental conditions.
- Food systems should be based on a strong commitment to social justice: for farmers, food system workers, and the most vulnerable members of our society who experience food insecurity.
- Resilient food systems require long-term environmental sustainability, transitioning away from dependence on fossil fuels and chemical inputs.
- Resilient and sustainable food systems will be more localised and regionalised.
- Trade in food and agricultural products can enhance economic and social well-being but should be conducted on the basis of international solidarity, respecting and not undermining the food sovereignty ambitions of other peoples and countries.<sup>10</sup>

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<sup>9</sup> The Australian Food Sovereignty Alliance, <<https://afsa.org.au/?s=food+sovereignty+>>.

<sup>10</sup> Patel, R. (2009). What does food sovereignty look like? *Journal of Peasant Studies*, 36(3), 663-671.