

**21 February 2014**

**[2-14]**

## **Abandonment – Proposal P1015**

### **Primary Production & Processing Standard for Horticulture**

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Food Standards Australia New Zealand (FSANZ) has assessed a Proposal prepared by FSANZ to develop a primary production and processing Standard for the raw horticultural produce sector.

On 26 March 2013, FSANZ sought submissions on its assessment summary. FSANZ received 18 submissions.

Pursuant to paragraph 60(b) of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act), FSANZ has decided to abandon the Proposal. Information on the reasons for FSANZ's decision is contained in the attached assessment summary.

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## Supporting documents

The following documents used to prepare this summary are available on the FSANZ website at <http://www.foodstandards.gov.au/code/proposals/Pages/proposalp1015primary5412.aspx>:

- SD1 Review of foodborne illness associated with selected fresh ready-to-eat horticultural produce (from the 1<sup>st</sup> call for submissions)
- SD2 Review of food safety systems in Australian horticulture (from the 1<sup>st</sup> call for submissions)

# Executive summary

As part of our examination of all primary production sectors, FSANZ has been examining the safety of horticultural produce in Australia.

Proposal P1015 was prepared to examine the hazards of horticultural produce, existing risk management measures and other possible measures that could be introduced. FSANZ considered regulatory and non-regulatory measures to determine the most effective and efficient approach to minimise the likelihood and impact of contaminated horticultural produce causing foodborne illness in Australia.

FSANZ released a 1<sup>st</sup> call for submissions on Proposal P1015 in March 2012, consulting on three options:

- Option 1 (develop a food regulatory measure)
- Option 2 (develop other measures)
- Option 3 (maintain the status quo).

In total, 18 submissions were received from industry and government. A variety of views were expressed, with some submitters supporting the development of a food regulatory measure, and others questioning the need for regulation on-farm.

Following the consultation, as well as several meetings with a Horticulture Working Group, we further considered those three options:

**Option 1** would involve developing a draft primary production and processing standard setting out regulatory measures for the production and primary processing of horticultural produce.

**Option 2** would involve the development by industry, and state and territory governments, of a strategy for maximising food safety in horticultural produce without introducing regulatory measures into the Code. This strategy would include using existing regulatory and non-regulatory systems, as well as creating a joint industry-government body for collating information, responding to incidents and monitoring food safety in horticulture.

**Option 3** would involve maintaining the status quo i.e. relying on existing regulatory and non-regulatory measures to manage risks in horticulture.

After considering these options, FSANZ has concluded that Option 2 is the preferred option and has decided to abandon P1015 for the following reasons:

- there is no uniform support for developing a Standard at this stage;
- it was estimated that 70-80% of horticultural produce in Australia is grown under a food safety scheme that contains measures to control identified risk factors;
- a deeper understanding of the nature (and type of commodity grown) or number of horticultural businesses that are operating without an industry quality assurance/food safety system should be determined before further regulation in this sector is considered;
- this can be progressed through a collaborative approach involving the horticulture industry and government to develop, as appropriate, targeted guidance, codes of practice, educative materials and training;

- the broader issue of ensuring through-chain traceability for all commodities needs to be addressed. FSANZ plans to commence an examination of traceability requirements for all industry sectors and supply chains in 2014;
- the decision to abandon the Proposal is consistent with the objectives and criteria prescribed by the *Food Standards Australia New Zealand Act 1991*.

FSANZ will assess the progress of initiatives under Option 2 after 12 months by consulting with stakeholders on addressing the identified information gaps, monitoring the incidence of foodborne illness associated with horticultural produce (as reported annually by OzFoodNet), monitoring the occurrence of food safety incidents associated with horticultural produce and examining the development and implementation of incident response procedures in the sector.

# 1 Introduction

## 1.1 The Proposal

This Proposal was prepared to examine possible food safety measures that should be applied to the primary production and processing of fresh horticultural produce.

Any resulting Standard developed for the horticultural sector as a result of P1015 would be a primary production and processing standard.

Primary production and processing standards are incorporated into Chapter 4 of the *Australia New Zealand Food Standards Code* (the Code) and apply in Australia only<sup>1</sup>. Along with other standards in the Code, these standards provide an approach to managing food safety in Australia that extends from production on the farm through to sale to the consumer. The process for developing such standards takes into account existing food safety requirements implemented by the sector, including any existing regulations (e.g. state/territory legislation), industry codes of practice or guidelines, and accredited food safety systems.

To date, FSANZ has developed primary production and processing standards for the seafood, dairy, poultry meat, eggs and seed sprout sectors. Proposals are currently under way examining raw milk products and major and minor meat species and wild game.

A Horticulture Working Group consisting of representatives from the industry, retail, government regulators and consumers was established by FSANZ to advise us throughout this process.

### 1.1.1 Scope

Fresh horticultural produce includes fruit, vegetables (including mushrooms and microgreens), herbs and nuts that are provided for sale in the raw state. P1015 has examined the through-chain activities involved in their production from on-farm through to sale:

- growing
- harvest
- primary processing (e.g. washing, trimming, post-harvest treatments)
- packing
- storage
- transport from the farm.

## 1.2 Current requirements in the Code

There are currently no food safety requirements in the Code applying specifically to the primary production of horticultural produce.

Chapter 3 Standards (Food Safety Standards) apply to food businesses that handle or sell horticultural produce. Some requirements in these Standards can apply to activities such as transport and pack house activities (as long as they are not considered to be “primary food production”). Some elements of traceability are also provided through food receipt and recall provisions of Standard 3.2.2, along with labelling requirements under Standard 1.2.2.

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<sup>1</sup> Australia only refers to food sold for consumption in Australia. PPP Standards do not include foods sold in New Zealand.

## 1.3 Reasons for preparing the Proposal

At the request of the Council of Australian Governments (COAG) Legislative and Governance Forum on Food Regulation<sup>2</sup>, FSANZ is considering food safety throughout all parts of the food supply chain for all industry sectors. In accordance with the *Overarching Policy Guideline on Primary Production and Processing Standards* (Ministerial Guidelines)<sup>3</sup>, FSANZ is examining food safety management in the primary production and processing stages of fresh horticultural produce.

Food safety schemes have been developed for the fresh produce sector in Australia and implemented widely. However there are no nationally consistent food safety regulatory requirements on the primary production of horticultural produce outside of industry-based schemes (non-regulatory measures). P1015 examined the current regulatory and non-regulatory measures and also considered the development of a primary production and processing standard for the horticulture sector.

## 1.4 Procedure for assessment

The Proposal was assessed under the Major Procedure set out in Division 2 of Part 3 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act).

## 1.5 Decision

The Proposal was abandoned under paragraph 60(b) of the FSANZ Act.

# 2 Summary of the findings

## 2.1 Summary of issues raised in submissions

FSANZ received 18 submissions during the first round of consultation. These submissions came from both industry and state/territory government departments.

Section 73 of the FSANZ Act requires FSANZ to have regard to all submissions made during the submission period when making a decision whether to prepare a Standard or a variation to a Standard; or to abandon the Proposal. FSANZ has had regard to all 18 submissions received, and where relevant, the submissions and responses have been discussed in the body of this report.

There was a clear consensus around the potential impacts on consumers and industry from a large outbreak such as those seen overseas, and that FSANZ should not duplicate existing schemes. However, there was no clear consensus on whether FSANZ should pursue a regulatory or non-regulatory approach.

A summary of the main areas of concern emerging from the submissions is presented in Table 1.

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<sup>2</sup> Formerly known as the Australia and New Zealand Food Regulation Ministerial Council.

<sup>3</sup> The Ministerial Guidelines are available at

<http://www.foodstandards.gov.au/code/fofr/fofrpolicy/pages/default.aspx>

**Table 1: Summary of issues**

Issue	Raised by	FSANZ Response
<b>Risk to food industry from food safety incident</b>	Industry and government	We take the risk to both industry and consumers from an outbreak very seriously. As a result, we have considered the risk factors identified in reported foodborne illness outbreaks, food incidents associated with horticultural products, the existing regulatory and non-regulatory risk management measures and the potential impact of a primary production & processing standard, and concluded that, for now, optimisation of existing measures would best manage the risk to both consumers and industry.
<b>Costs/burden of current systems</b>	Industry and government	There was significant concern that FSANZ would not acknowledge the existing costs to industry from their existing food safety schemes, as well as the schemes' ability to prevent food-borne illness. In our risk management decision, we took into account the burden on industry from their current food safety systems, as well as their value in food safety. Our analysis took into account the high level of uptake of food safety schemes in the sector and the high degree of assurance they afford in terms of food safety. A regulatory outcome such as a standard would be "business as usual" for businesses operating under such schemes.
<b>Regulatory vs other measures</b>	Industry and government	Most submitters could see pros and cons to both regulatory and other measures. There was no clear consensus that regulatory measures were the best way to manage hazards in horticultural produce. See points above.
<b>Provision of educational materials</b>	Industry and government	Several submitters called on FSANZ to produce or collate educational materials for the horticulture industry. FSANZ will consider working with industry and jurisdictions to provide targeted materials where necessary.

## **2.2 Technical work**

### **2.2.1 Review of foodborne illness associated with selected fresh ready-to-eat produce**

FSANZ undertook a descriptive scoping review of selected, well documented outbreaks associated with fresh ready-to-eat horticultural produce to determine whether certain assumptions regarding the types of fresh horticultural commodities most often implicated in foodborne illness and associated production factors hold true to the Australian situation. Supporting the outbreak analysis, Australian epidemiological and surveillance data (where available) and existing international and domestic published and unpublished assessments were also utilised.

Recognising that exact mechanisms of produce contamination are rarely, if ever, definitively established, the majority of outbreak reports examined in the scoping review did not provide details of environmental investigations or did not report results that provided sufficient detail to define a source of produce contamination. Acknowledging these limitations, the review reaffirmed existing assumptions about the commodities and production activities most likely to result in produce contamination and outbreaks of foodborne illness.

Fresh horticultural commodities involved in outbreaks were those intended to be eaten uncooked without any steps to eliminate pathogens before consumption. Two general commodity categories were identified from the outbreak data: soft fruit (melons, papaya, mango, tomatoes and berries) and vegetables, including leafy greens (lettuce, spinach), herbs (coriander, basil and Thai basil), green onions, baby corn, sugar peas, carrots and chilli peppers. From the available data, the use of poor quality water for pre- and post-harvest activities emerged as the most common cause of produce contamination. Direct faecal contamination of produce growing in a field also emerged as a source of contamination. Multiple breaches of good hygienic practice along the supply chain were also noted in a number of outbreaks where a specific failure point was not identified. Mitigation activities addressing inputs and activities in the growing and initial processing stages would minimise the potential for produce contamination.

It was further noted that other commodities and/or production activities may be implicated in future horticultural-associated foodborne illness outbreaks should failures occur in risk mitigation measures throughout the supply chain.

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.

The *Review of foodborne illness associated with selected fresh ready-to-eat produce* is provided as SD2.

## **2.2.2 Review of on-farm food safety systems in Australian horticulture**

FSANZ contracted Tasmanian Quality Assured Australia (TQA Australia) to report on the uptake and nature of common food safety schemes used in horticulture. The report *Review of Food Safety Systems in Australian Horticulture* is provided as Supporting Document 3. On available information, it was estimated that 70-80% of horticultural produce in Australia is grown under a food safety scheme that contains measures to control the above identified risk factors.

## **2.3 Risk management**

The assessment of the current food safety management measures in the primary production and processing stages of horticulture is summarised in Table 2. At this stage, we cannot quantify the significance of the food safety management gaps identified. The starting point would be to develop a fuller appreciation of the existing regulatory and voluntary food safety mechanisms and arrangements and the nature and number of horticultural businesses not operating under a voluntary scheme and then explore the potential to build on and improve these arrangements through collaboration.

**Table 2: Assessment of current food safety management measures**

	Step in Supply Chain	Hazards	Current management tool	Gap	
PREVENTION	Production: • Growing • Harvest	Contamination from irrigation water/ fertilizers/animal incursions	Poor hygienic practices	GAP/GHP - Food safety elements implemented under industry food safety schemes	Up to 20-30% of produce not covered by an industry scheme.
	Primary processing (washing/trimming/post-harvest treatments/packing storage)	Contamination from wash water/animal incursions		As above + food safety requirements of Standards 3.2.2 and 3.2.3 may apply to pack house operations.	Growers not covered by an industry scheme + application to on farm operations.
	Transport			Food safety requirements of Standard 3.2.2 and 3.2.3 may apply	-
	Wholesale/retail			Food safety requirements of Standard 3.2.2 and 3.2.3 apply	-
	Processing	Contaminated minimally processed RTE fresh produce (e.g. fresh cuts)		GMP/GHP Food safety elements covered under industry food safety schemes + food safety requirements of Standard 3.2.2 and 3.2.3 apply	Not known – there may be businesses operating on farm and undertaking activities considered to be “primary food production” - Chapter 3 requirements would not apply to those activities.
RESPONSE	Traceability		Elements of traceability are covered through labelling provisions under Standard 1.2.2 (Food Identification Requirements), and the food receipt and food recall provisions of Standard 3.2.2.	No explicit through chain traceability requirements	

### 2.3.1 Risk management options

Three risk management options were proposed following an assessment of the Proposal and on which public comment was sought, to address the identified gaps:

- Option 1 (develop a food regulatory measure)
- Option 2 (develop other measures)
- Option 3 (maintain the status quo).

The critical elements of preventing food safety problems and the ability to respond effectively to outbreaks or potential problems were considered in the development of these options.

Option 3 does not provide the means for effective response to food safety incidents and therefore was considered as a comparative measure against appropriate regulatory or other interventions.

An analysis of options 1 and 2 is provided below. This analysis drew on the findings of the technical work (which identified, where possible, the main risk factors for horticultural produce), existing risk management tools (regulatory and non-regulatory), qualitative cost-benefit and the feedback from consultations to determine which option provides the greatest potential benefit.

In response to the issues raised during public consultation and the advice from the Horticulture Working Group, the following factors were considered in assessing the impact of each option:

- the potential food safety risks posed by those businesses not operating under an existing industry scheme
- implementation and enforcement issues (given the complexity of the supply chain for horticultural produce)
- whether other tools (e.g. education initiatives, guidance materials) may be more cost effective in targeting and reducing potential risks and facilitating an effective response in the event of food safety incidents
- qualitative costs and benefits of a developing a standard

#### 2.3.1.1 Option 1 – develop a food regulatory measure

Under option 1, the development of regulatory measures ranged from specifying particular control measures or tools that should be in place (such as control measures to manage inputs such as water and fertiliser, or traceability requirements) to requiring a business to demonstrate, through a food safety management system, that it has analysed its hazards and has effective control measures in place.

Little data were available on the nature (and type of commodity grown) or number of horticultural businesses that are operating without an industry quality assurance/ food safety system in place. A survey was attempted by Curtin University on *Perceived barriers to the adoption of quality assurance systems in the fruit and vegetable processing industry in Western Australia* but as a result of an extremely low return rate, it was not possible to estimate the number of businesses not covered by a voluntary food safety scheme. Nationally, there could be a large number of smaller businesses (several thousand) growing a variety of commodities ranging from higher risk commodities (e.g. no processing step before consumption that will eliminate or reduce to safe levels hazards that may be present) to lower risk (e.g. processing steps before consumption include cooking and removal of inedible peel).

Table 3 sets out the possible costs and benefits of developing a standard to regulate horticultural produce and indicates little, if any, net benefit would be provided.

A consideration of the cost/benefit of developing a standard is not intended to be an exhaustive, quantitative dollar analysis of the options and, in fact, most of the impacts that are considered cannot be assigned a monetary value. Rather, the analysis seeks to highlight the qualitative impacts of criteria that are relevant to each option. These criteria are deliberately limited to those involving broad areas such as trade, consumer information and compliance.

The points below list the effect that developing a standard would be expected to have on various sectors.

After extensive consultation with state and territory enforcement agencies, it was clear that enforcement of regulatory requirements for horticulture would be difficult. The horticulture industry comprises a large number of small businesses growing a variety and changing number of commodities spread over a large geographical area. Given the diverse and unknown nature of the parts of the sector not operating under an industry scheme, a “one size fits all” regulatory approach was considered problematic to develop and deliver.

**Table 3: Costs and benefits of developing a standard**

Stakeholder Group	Impacts
<b><u>Horticultural Producers</u></b>	
<b>Costs</b>	An additional number of producers, in response to a potential regulatory penalty, will need to put in place a food safety system.
<b>Benefits</b>	A reduction in the risk of a food safety incident with its associated costs to the business directly and the wider industry.
<b><u>Consumers</u></b>	
<b>Cost</b>	Potentially a very small increase in the cost of horticultural produce as a result of costs being passed down the supply chain.
<b>Benefit</b>	A reduction in the risk of a food-related illness and its associated costs to both them and their employer.
<b><u>Government</u></b>	
<b>Costs</b>	<p>Food regulators would most likely bear significant costs undertaking inspections in response to specific issues, maintaining a third party auditing system including undertaking parallel auditing and ensuring a register of regulated business is maintained and food safety systems are in place (principally voluntary schemes that are already in place) and confirming administratively that the scheduled audits have been undertaken.</p> <p>Also, due to the ease of entry and exit to this industry and the number of businesses that would need to be regulated, ensuring high or universal compliance would be very difficult for regulators.</p>

Stakeholder Group	Impacts
<b>Benefits</b>	<p>Improved capacity to regulate the industry across the entire production chain. This will potentially reduce the risk of an incident and reduce the cost of an incident if it were to occur.</p> <p>A reduction in the risk of a food-related incident may result in avoiding the cost of managing a major outbreak entirely. It may also result in a reduction in the health care costs borne by Government.</p>

### 2.3.1.3 Option 2 – develop other measures

Acknowledging the extent of coverage and scope of industry food safety schemes, FSANZ considered:

- whether there were additional measures that industry can implement to ensure all producers of fresh produce operate under a scheme
- whether developing educational materials or guidance could provide an adequate level of assurance that fresh horticultural produce is produced and supplied with appropriate food safety controls in place.

This could be delivered through establishing a collaborative model between the horticulture industry and state and territory and federal governments to deliver a preventative and responsive approach for managing horticultural produce. Important elements of this collaboration include:

- knowledge management to support producers and processors to implement and comply with existing industry and regulatory requirements
- evaluation to determine where measures are working and implementing actions where systems are not performing, irrespective of whether the horticultural produce is grown under a scheme
- incident response procedures and protocols for industry and government to cooperatively respond when food safety issues occur.

As an example of such an initiative, the Produce Marketing Authority (PMA) – Australia and New Zealand, in conjunction with the University of Sydney’s Faculty of Agriculture and Environment, and with funding contributions from the Australian Government through Horticulture Australia Limited (HAL), have established the Fresh Produce Safety – Australia and New Zealand website at <http://freshproducesafety-anz.com/>. This website provides open access to information for businesses and government with the aim of enhancing the safety and quality of fruit and vegetables as well as increasing collaboration between all stakeholders.

Through chain traceability was identified as an important tool to facilitate rapid response in the event of a food safety incident in horticultural produce. FSANZ has recognised that further work is needed to better address traceability requirements in Chapters 3 and 4 of the Code for all foods and will commence an examination of traceability requirements for all industry sectors and supply chains in 2014.

### 2.3.2 Conclusion

For horticultural businesses operating under industry schemes (covering up to 80% of horticultural produce in the marketplace), specifying primary production requirements in the Code (Option 1) would be “business as usual”.

The main impact of any regulatory requirements would be for those businesses not currently operating under such a scheme and for enforcement agencies (as noted in Table 3).

A deeper understanding of the nature (and type of commodity grown) or number of horticultural businesses that are operating without an industry quality assurance/ food safety system in place should be determined before further regulation is considered. Following consideration of the submissions and further consultation with the Horticulture Working Group, it was determined that this can be progressed through a collaborative approach involving the horticulture industry and government to develop, as appropriate, targeted guidance, codes of practice, education materials and training (Option 2). This decision takes into account that there are existing regulatory requirements in Standards 3.2.2 and 3.2.3 that may be applied to activities such as pack house operations and the production of minimally processed ready-to-eat fresh produce, where those activities do not constitute 'primary food production' for the purposes of Chapter 3 of the Code. This information is summarised in Table 4.

### **2.3.3 Implementation and review**

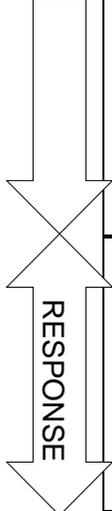
FSANZ will assess the progress of initiatives under option 2 after 12 months by consulting with stakeholders on addressing the identified information gaps, monitoring the incidence of foodborne illness associated with horticultural produce (as reported annually by OzFoodNet), monitoring the occurrence of food safety incidents associated with horticultural produce and examining the development and implementation of incident response procedures in the sector. Further regulation may need to be considered if these initiatives fail to meet the expectations of both preventing food safety problems and the ability to respond effectively to food safety incidents or potential problems.

**Table 4: Summary of analysis supporting option 2**

Step in supply chain	Gap	Risk management approach
Production: <ul style="list-style-type: none"> <li>• Growing</li> <li>• Harvest</li> </ul>	Up to 20-30% of produce not covered by an industry scheme.	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: <ul style="list-style-type: none"> <li>• lack of data attributing foodborne illness to horticultural produce grown by those businesses</li> <li>• lack of data on the nature of these operations</li> <li>• complexity of the supply chain</li> <li>• implementation and enforcement issues.</li> </ul> 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. <b>Option 2</b>
Primary processing (washing/trimming/post-harvest treatments/packing storage)	Growers not covered by an industry scheme + application to on farm operations.	Regulatory requirements under Standards 3.2.2 and 3.2.3 may already be in place or may be applied at the state/territory level. Collaboration between the horticulture sector and state regulatory agencies can further inform implementation requirements. <b>Option 2</b>
Transport	–	Regulatory requirements already in place for food businesses. Application to transport of horticultural produce could be enhanced (if required) through education and guidance materials. <b>Option 2</b>
Wholesale/retail	–	Regulatory requirements already in place. Application to horticultural produce, particularly in relation to higher risk activities and commodities (e.g. cutting, display and sale of melon) and obligations as a food business (e.g. as for farmer's markets) could be enhanced through education and guidance materials. <b>Option 2</b>

PREVENTION

Step in Supply Chain	Gap	Risk management approach
Processing	Not known – there may be businesses undertaking ‘primary food production’ activities (as defined in the Code) - Chapter 3 requirements would not apply to those activities.	Regulatory requirements under Standards 3.2.2 and 3.2.3 may already be in place or may be applied at the state/territory level. Collaboration between the horticulture sector and state regulatory agencies can further inform implementation requirements. <b>Option 2</b>
Traceability	No explicit through chain traceability requirements	The broader issue of ensuring through chain traceability for all commodities/foods needs to be addressed. FSANZ will examine how traceability is integrated into the requirements of Chapters 3 and 4 of the Code through a separate process. <b>Option 2</b>



## **2.4 Risk communication**

Consultation is a key part of FSANZ's standards development process.

FSANZ acknowledges the time taken by individuals and organisations to make submissions on this Proposal.

Every submission on a proposal is reviewed by FSANZ staff, who examine the issues identified and prepare a response to those issues. All comments are taken into account during the process, are valued and all contribute to the rigour of our assessment.

FSANZ also acknowledges the expertise of members of the Horticulture Working Group.

The process by which FSANZ considers standards development matters is open, accountable, consultative and transparent. Public submissions were sought to obtain the views of interested parties on the issues raised by the Proposal and the impacts of regulatory options.

Submissions were invited via the FSANZ Notification Circular and email alert, a media release and through FSANZ's social media tools and Food Standards News. Information about the Proposal was also developed for the FSANZ website at <http://www.foodstandards.gov.au/foodstandards/primaryproductionprocessingstandardsaustraliaonly/horticulture.cfm>

Targeted consultation was also undertaken, specifically with some industry members and enforcement agencies.

## **2.5 FSANZ Act requirements**

### **2.5.1 Section 59**

#### **2.5.1.1 Cost benefit analysis**

The analysis summarised above suggests that the costs that would arise from developing a food regulatory measure would outweigh the direct and indirect benefits to the community, Government or industry that would arise from development of that measure.

#### **2.5.1.2 Other measures**

For the above-mentioned reasons, FSANZ has determined that there are other measures at this stage (whether available to FSANZ or not) that would be more cost-effective than a food regulatory measure developed or varied as a result of the Proposal.

#### **2.5.1.3 Any relevant New Zealand standards**

New Zealand has its own food safety legislation for food businesses and primary producers, which is developed and implemented by the Ministry for Primary Industries<sup>4</sup>.

Chapter 4 standards are developed as Australia-only standards.

#### **2.5.1.4 Any other relevant matters**

There are no other relevant matters.

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<sup>4</sup> Formally the New Zealand Food Safety Authority (NZFSA)

## **2.5.2. Subsection 18(1)**

FSANZ has considered the three objectives in subsection 18(1) of the FSANZ Act during the assessment.

### **2.5.2.1 Protection of public health and safety**

This work has been carried out with the objective of protecting public health and safety, as significant contamination of horticultural produce by pathogenic microorganisms would be an unacceptable danger to public safety. The available evidence suggests that 70-80% of fresh horticultural produce is produced under recognised food safety schemes and that there is a low level of contamination of horticultural products with pathogenic microorganisms.

### **2.5.2.2 The provision of adequate information relating to food to enable consumers to make informed choices**

There is no evidence that a problem exists in terms of provision of information to consumers in order for them to make informed choices in this area.

### **2.5.2.3 The prevention of misleading or deceptive conduct**

There is no evidence that a problem exists in terms of misleading or deceptive conduct.

## **2.5.3 Subsection 18(2) considerations**

FSANZ has also had regard to:

- **the need for standards to be based on risk analysis using the best available scientific evidence**

We have conducted an analysis of risk factors associated with horticulture-related foodborne illness outbreaks in Australia and existing risk management measures using the best available scientific evidence. This analysis established the production activities most commonly associated with outbreaks of foodborne illness, and whether measures exist that would sufficiently manage those risks.

- **the promotion of consistency between domestic and international food standards**

We have examined the existing measures overseas, such as work done by Codex, to attempt to align our work with the regulation of horticultural produce in other countries. However, there is a great deal of discrepancy between countries on their approach to on-farm food safety in horticulture. As such, it was difficult to promote consistency between domestic and international food standards.

- **the desirability of an efficient and internationally competitive food industry**

This approach is commensurate with risk and does not impose any unnecessary additional economic burden on the horticulture industry.

- **the promotion of fair trading in food**

We examined the potential impact on fair trading of food and decided that the outcomes of the proposal would have no impact on trade in horticultural produce between Australia and other countries.

- **any written policy guidelines formulated by the Ministerial Council**<sup>5</sup>

The former Australia and New Zealand Food Regulation Ministerial Council developed an Overarching Policy Guideline on Primary Production and Processing Standards. FSANZ has had regard to the policy guidance and higher order principles in this Guideline.

### **3. Rights of review**

Subparagraph 143(1)(b)(ii) of the FSANZ Act allows a person whose interests are affected by FSANZ's decision to abandon this Proposal to apply to the Administrative Appeals Tribunal for a review of that decision.

This right of review is subject to the *Administrative Appeals Tribunal Act 1975* (the AAT Act). In other words, the AAT Act sets out the specific requirements relating to applications for review, for example, how such applications are made and processed; as well as procedures relating to the review itself.

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<sup>5</sup> Now known as the COAG Legislative and Governance Forum on Food Regulation