5

National and international standards setting

5.1 In the 45th Parliament the JSCFADT had identified a 'lack of coordination, both between portfolios and between jurisdictions' in delivery of the national response to PFAS.[1] *Recommendation 1* of the inquiry report called for leadership to ensure effective coordination of effort in partnership with the States and Territories.

5.2 This effort would be underpinned by a robust national regulatory framework governing environmental and health safety standards. The introduction of laws restricting the use of PFAS chemicals would contain the problem in the future, as would Australia's ratification of international instruments supporting that goal.[2]

5.3 *Recommendations 7* to *9* of the JSCFADT report accordingly proposed that the Government:

- Ban the use of and destroy PFAS based fighting foams (including PFOS, PFOA and PFHxS), restrict the use of shorter chain PFAS–based foams, and promote PFAS free alternatives (*Recommendation 7*).
- Urgently ratify the listing of PFOS and expedite the process for PFOA and PFHxS in the event that they are listed under the Stockholm Convention on Persistent Organic Pollutants (*Recommendation 8*).
- Initiate an independent review of environmental regulation of Commonwealth land to cover contamination emanating from these

[1] JSCFADT, *Inquiry into management of PFAS contamination in and around Defence bases,* December 2018, p. 125.

[2] JSCFADT, *Inquiry into management of PFAS contamination in and around Defence bases,* December 2018, p. 129.

sites, and evaluate the utility of establishing a Commonwealth Environment Protection Agency (*Recommendation 9*).

5.4 This chapter considers the Government's response to these recommendations and assesses progress made to date towards a national standard against these measures.

A national framework for PFAS regulation

5.5 This report has outlined the significant commitments made by the Government to progress remediation of PFAS affected Defence sites in accordance with national and state and territory-based requirements. This includes investment in research which may significantly reduce PFAS-related impacts on human and environmental health.

5.6 The key regulatory documents pertaining to this work are listed on the PFAS website, as follows:

- The *PFAS National Environmental Management Pla*n (NEMP)—provides a consistent, practical, risk–based framework for the environmental regulation of PFAS–contaminated materials and sites.
- *The Intergovernmental Agreement on a National Framework for Responding to PFAS Contamination*—provides specific guidance on actions at PFAS contaminated sites. Any contaminated site investigation in Australia should be conducted in accordance with the *National Environment Protection (Assessment of Site Contamination) Measure*.
- *The National Industrial Chemicals Notification and Assessment Scheme (*NICNAS)—helps protect people and the environment by assessing the risks of industrial chemicals. NICNAS assessments inform decisions made by a wide range of government agencies involved in regulating the control, use, release and disposal of industrial chemicals.[3]

5.7 The JSCFADT's *Recommendation 7* called on the Government to work towards banning PFAS chemicals and, in transition, to restrict their uses including by using PFAS free alternatives. *Recommendation 8* aimed to consolidation this commitment by ratifying and expediting the banning of

[3] Regulatory Guidance, *PFAS website* www.pfas.gov.au/government–action/regulatory–guidance viewed 18 July 2020.

PFAS substances, and *Recommendation 9* to embed this in a nationally consistent framework for environmental protection.

5.8 The Government's response highlights the interaction of the key mechanisms set out above and the importance of their ongoing review to effect a coordinated transition towards these goals.

National Standard for Environmental Risks Management of Industrial Chemicals

5.9 Prior to 1 July 2020, the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) carried responsibility for standard setting in relation to the use and disposal of PFAS.[4]

5.10 The Government's response refers to recommendations made by the NICNAS which guide industry, states and territories under current laws pending introduction of the *National Standard for Environmental Risks Management of Industrial Chemicals*.[5] The response advises:

> Work on framework legislation to establish the National Standard is currently underway. It will address a gap in environmental regulation of industrial chemicals and provide assurance that environmental risks are managed. The National Standard will be implemented by each jurisdiction, including the Australian Government in Commonwealth areas. All Australian governments have agreed to implement the National Standard in accordance with a national implementation plan. Implementation arrangements in jurisdictions will give effect to the standards set under the framework legislation.[6]

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[4] The Australian Industrial Chemicals Introduction Scheme (AICIS) replaced NICNAS as the new national regulator of the importation and manufacture of industrial chemicals in Australia from July 1, see discussion below and DAWE, Transition from NICNAS to AICIS www.industrialchemicals.gov.au/transition-from-nicnas-to-aicis viewed 19 July 2020.

[5] Australian Government, *Whole of Australian Government response to the report of the JSCFADT: inquiry into the management of PFAS contamination in and around Defence bases*, Department of Agriculture, Water and Environment (DAWE), 20 February 2020 (hereafter Government response), *Recommendation 2*, pp. 6–10; *Recommendation 7*, pp. 18–19.

[6] Government response, *Recommendation 7*, p. 19.

5.11 In its review, the Sub-committee wanted to establish progress being made in the finalisation of these important mechanisms. Asked about the status of the National Standard in February this year, the Department of Agriculture, Water and the Environment (DAWE) advised that a draft bill was at that time out for public consultation.[7] Consultation on the draft bill package closed soon after on 21 February 2020.[8]

5.12 According to the DAWE website the legislation is expected to be introduced by mid-year, with drafting and enactment of state and territory implementing legislation to be finalised by the end of 2020. From 2022 the Standard is intended to be in full operation in all jurisdictions.[9]

NEMP2.0

5.13 The Government response describes the role of the NEMP as follows:

> The PFAS NEMP establishes nationally consistent environmental guidance and standards for managing PFAS contamination and waste management of PFAS of concern (including PFOS, PFOA and PFHxS). It provides information on recommended approaches to storage, transport and waste management, including landfill disposal and destruction, of PFAS contaminated materials and wastes (including PFAS–containing products). The PFAS NEMP is implemented by individual jurisdictions through their own regulatory mechanisms.[10]

5.14 In its first report the Sub-committee followed progress of the revised NEMP 2.0, which was released for comment in March 2019.[11] This second

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[7] Mr James Tregurtha, First Assistant Secretary, Department of Agriculture, Water and the Environment (DAWE), *Committee Hansard, 10 February 2020, pp. 5–6*

[8] DAWE, *Submission 2*—Answers to Questions on Notice (AQoN) p. 1. The consultation on the Industrial Chemicals Environmental Management (Register) Bill and supporting legislation opened on 20 January 2020 and attracted 11 submissions see 'Consultation on draft legislation for the National Standard for Environmental Risk Management of Industrial Chemicals' www.environment.gov.au/protection/chemicals–management/national–standard/draft–legislation viewed 18 July 2020.

[9] DAWE, National Standard for Environmental Risk Management of Industrial Chemicals www.environment.gov.au/protection/chemicals–management/national–standard#text–alt, viewed 19 July 2020.

[10] Government response, *Recommendation 7*, p. 19.

[11] JSCFADT, *Inquiry into PFAS remediation in and around defence bases – First report* December 2019,

version aimed to address 'urgent priorities' for standardised environmental values and new guidance on soil reuse, wastewater management and storage and containment.[12] In December 2019 Defence advised that the NEMP2.0 had undergone the final phases of revision and had been agreed by the heads of Environmental Protection Agencies (EPAs) in October 2019.[13] The Government response confirmed that agreement but gave no timeline for introduction of the revised framework.[14]

5.15 In February 2020, the Sub-committee followed up with DAWE about prospects for implementation of the revised NEMP 2.0, which seemed to be delayed. DAWE advised about the breadth of the consultation among the states and territories and the detail to be worked through to gain agreement.[15]

5.16 DAWE's Mr Anthony McGregor reported on the role of the NEMP as standards are revised by the National Chemicals Working Group and the National Health and Medical Research Council (NHMRC):

> The NEMP is the mechanism for bringing together a range of those pieces of work. The National Chemicals Working Group is basically the working group across jurisdictions that does a lot of the work to feed into the NEMP and review the new content. The work on revised soil criteria is one of the pieces of work that will feed into the next version of the NEMP. The other thing that the NEMP does is pick up, capture and provide some explanatory information on other pieces of guidance like the NHMRC, which you referred to. As, periodically, guidelines relevant to PFAS are updated or revised, new versions of the NEMP will pick that up

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p. 42 (hereafter *First report,* December 2019).

[12] The NEMP2.0 consultation was managed by EPA Victoria— see *First report,* December 2019, p. 33 and Government response, *Recommendation 2*, p. 10; *Recommendation 7*, p. 19.

[13] Mr Luke McLeod, Assistant Secretary, PFAS Investigation and Management, Department of Defence, *Committee Hansard*, Canberra, 2 December 2019, p. 6.

[14] Government response, *Recommendation 7*, p. 19.

[15] Mr Anthony McGregor, Assistant Secretary, Chemicals Management Branch, and Dr Sarah Broomhall, Chemicals Advice and Policy Section, DAWE, *Committee Hansard,* Canberra, 10 February 2020, pp. 6–7, 8.

> and provide guidance and instruction on how to apply that in a site remediation context.[16]

5.17 The Sub-committee notes that the DAWE website now states that the revised NEMP was published in April 2020, and has superseded the first version.[17]

Industrial Chemicals Act 2019

5.18 Another important change for the regulatory framework was the introduction of the new *Industrial Chemicals Act 2019* on 1 July 2020.[18] Under this legislation the Australian Industrial Chemicals Introduction Scheme (AICIS) replaced NICNAS as the new national regulator of the importation and manufacture of industrial chemicals in Australia.[19]

5.19 The Government's response advised that the Executive Director of the ACIS will now have the power to initiate an investigation of an industrial chemical at any time, with powers to prohibit use of a chemical at any time:

> As an outcome of an evaluation, the Executive Director of AICIS may vary the terms of, or cancel, the listing of a chemical on the Australian Inventory of Industrial Chemicals, 2 or vary the terms of, or cancel, an assessment certificate.[20]

Phasing out PFAS

5.20 The Government response to *Recommendation 7* and *8* provides updates on the progress of promoting PFAS free alternatives to PFAS based firefighting foams within Australia and moves for ratification of the listing of PFOS under the *Stockholm Convention on Persistent Organic Pollutants*.

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[16] Mr McGregor, DAWE, *Committee Hansard,* Canberra, 10 February 2020, p. 7.

[17]DAWE, NEMP www.environment.gov.au/protection/publications/pfas-nemp viewed 22 July 2020.

[18] Government response, *Recommendation 7*, p. 19.

[19] DAWE, Transition from NICNAS to AICIS www.industrialchemicals.gov.au/transition-from-nicnas-to-aicis viewed 19 July 2020.

[20] Government response, *Recommendation 7*, p. 19.

5.21 In its response to *Recommendation 7,* the Government noted that Defence is phasing out use of PFAS firefighting foams, now deploying a more environmentally safe product called Ansulite in high risk fire situations. Defence has also changed firefighting and trial procedure to endure release of firefighting foam into the environment is minimised and that any release 'is 'captured and treated and/or disposed of at licensed waste disposal'. [21]

5.22 At hearings in December 2019, the Sub-committee asked about the phasing out of PFAS-based foam by Defence. Deputy Secretary Mr Steve Grzeskowiak explained that Ansulite is not a long–term solution:

> While that product doesn't have PFOS and PFOA put into it when it's made, it still would have other chemicals from the PFAS family unit. So it's not a fluorine free foam.…We are now running a quite advanced piece of work looking for the next foam product we can go to. The world has moved on. There are probably foams out there now that are completely fluorine free that will be able to meet the task of doing what we need to do with these products. So we do say we've stopped using the product that had that PFOS and PFOA, but Ansulite does have fluorinated products in it.[22]

5.23 The response advised that this alternative product may be introduced over 2020, also noting that Airservices Australia has not used PFAS foams in any civilian airport since 2010. The response nevertheless concludes that: 'It is likely that to support Defence capability needs, some PFAS-containing foams will continue to be used within Defence until certified alternatives to existing firefighting foams become available'. [23]

5.24 *Recommendation 8* of the JSCFADT report called on Government to 'urgently ratify' the Stockholm Convention listing of PFOS, and further to expedite the ratification of PFOA and PFHxS in event of their listing. In its report the Committee had noted that this measure had broad support among submitters to the inquiry and yet, despite this support, it had been 'more than nine years since PFOS was initially listed under the Convention'.[24]

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[21] Government response, *Recommendation 7*, p. 20.

[22] Mr Steve Grzeskowiak, Deputy Secretary, Estate and Infrastructure, Department of Defence, *Committee Hansard,* 2 December 2019, p. 7.

[23] Government response, *Recommendation 7*, p. 20.

[24] JSCFADT, *Inquiry into management of PFAS contamination in and around Defence bases,* December

5.25 In its response the Government explains that Australia, unlike other most other convention parties, chose to be an 'opt–in' party. This means that it enters a domestic treaty making process to determine whether to ratify any amendments to the Convention, which includes any new chemical listings.[25] It further advises that progress towards the National Standard will provide the foundation for ratification to meet the specific obligations for the management of those chemicals under the Stockholm Convention in a nationally consistent framework, noting:

> The Australian Government, and state and territory governments, have undertaken extensive consultation on the National Standard over the past five years. Governments are continuing targeted consultation with affected stakeholders, industry and governments to ensure a robust regulatory framework. The Australian Government is working to bring forward framework legislation for consideration by the Parliament as soon as possible.[26]

5.26 The Sub-committee asked the DAWE about the timeframes it anticipated for Australia to advance its ratification. Mr Tregurtha confirmed the finalisation of the National Standard will enable Australia to ratify the chemicals indicated. He noted however that ratification of any chemical would need to be approved by Government and the Minister.[27]

5.27 In Chapter 3, the Sub-committee reported advice from the Queensland Government that it had introduced the first legislation banning the use of PFAS based fire-fighting foams in Australia. The submission advised:

> On 7 July 2016, in the absence of Australian ratification of the Stockholm convention, the Department of Environment and Science (DES) introduced the Environmental Management of Firefighting Foam Operational Policy and provided a 3 year transition period for firefighting foam users to comply with the

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2018, p. 149.

[25] New Zealand, by contrast, elected to be an 'opt-out' country. This means that the listing of PFOA automatically comes into effect in December 2020, with amendments to legislation supporting this currently being drafted. See FSANZ, *Submission 14*—AQoN, p. 1.

[26] Government response, *Recommendation 8*, p. 21.

[27] Mr Tregurtha, DAWE, *Committee Hansard*, Canberra, 10 February 2020, p. 5.

> policy. As of 7 July 2019, all persons in Queensland are expected to have fully complied with the policy.[28]

5.28 The Queensland DES explains that the *Environmental Protection Act 1994* (Qld) is not a legislative requirement but a policy which 'clearly articulates expectations for meeting General Environmental Duty (s.319) requirements'. It further explains that:

> The policy's objective is to prevent short-term and long-term environmental harm taking into account the precautionary principle as set out in the Intergovernmental Agreement on the Environment and best practice environmental management. It sets out the environmental management standards to be met by foam users for both Class A foams used for solid combustible fires and Class B foams used for flammable liquid fires in recognition that all firefighting foams pose a range of hazards to the environment, and applies to anyone who handles, transports, disposes, stores, uses, or releases firefighting foams in Queensland. [29]

5.29 The submission also states that Queensland's policy has been regarded internationally as a benchmark for best practice in guiding transition to sustainable firefighting foam alternatives. The work has also been frequently referenced by other regulatory agencies, industry groups and the foam industry, as well as the Stockholm Convention POP [Persistent Organic Pollutants] Committee and Conference of the Parties.[30]

Requirements for a national PFAS safety net

5.30 *Recommendation 9* of the JSCFADT report calls for an independent review of the environmental regulation of Commonwealth lands, including to ensure:

- the adequacy of current and proposed arrangements to ensure that responses to contamination events originating on Commonwealth land are given appropriate regulatory oversight;
- possible measures to enhance the regulatory response to contamination events that cross jurisdictional boundaries.

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[28] Queensland Department of Environment and Science (Qld DES), *Submission 7*, p. 1.

[29] Qld DES, *Submission 7*, p. 1.

[30] Qld DES, *Submission 7*, p. 1.

5.31 The recommendation also invites consideration of the value of establishing a national EPA, or other alternative options to regulate the Commonwealth's management of federally owned land.[31]

5.32 Effectively this recommendation aims to ensure consistent national regulation of PFAS, in a national PFAS safety net. It would capture Commonwealth lands but also apply to affected properties adjoining them under state or territory jurisdiction. As discussed in this report, consistency remains a live issue for people in this situation as the national frameworks designed to uphold this consistent approach are finalised and implemented.

Towards the national framework

5.33 The Government's response indicates its confidence that the *National Standard for Environmental Risks Management of Industrial Chemicals* (the National Standard) will achieve the required broader framework of protections. The Council of Australian Governments (COAG) agreed in 2015:

> …once established, the National Standard would be implemented by jurisdictions according to their responsibilities. This means that activities on Commonwealth land will need to comply with any restrictions or controls on the use and disposal of industrial chemicals, determined through the National Standard.[32]

5.34 The response also notes the importance of the *Environment Protection and Biodiversity Conservation Act 1999 (*EPBC Act) in regulation of Commonwealth lands, and its current review to be completed in October 2020. This review requires an independent review of the EPBC Act's operation every ten years, ostensibly meeting the proposal for independent review of the Commonwealth regulatory framework in *Recommendation 9.*[33]

5.35 In its review last Parliament the JSCFADT was cognisant of the limits of the EPBC Act. For example, it noted concerns that there was a lack of sufficient separation between the 'regulated and the regulator' in the

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[31] *Recommendation 9,* JSCFADT, *Inquiry into management of PFAS contamination in and around Defence bases,* December 2018, p. 151.

[32] Government response, *Recommendation 9,* p. 23.

[33] Under section 522A of the Act , its Government response, *Recommendation 9,* p. 23.

Department of Defence's oversight of its remediation works.[34] There were also limitations in the jurisdiction of the EPBC Act, which only applies to new actions consistent to past precedents.[35]

5.36 Effectively, there was no overseeing role in regulation of the Act at the federal level, as would have occurred if contamination was dealt with on non-commonwealth land under the jurisdiction of state and territory EPAs. Meanwhile, the JSCFADT noted: 'Despite PFAS contamination emanating from Defence land into surrounding communities, state EPAs have been unable to fill this gap due to jurisdictional limitations'.[36]

5.37 As set out above, in supporting the National Standard, Government introduces a regulatory policy that applies to both Commonwealth and state and territory jurisdictions, with responsibility for non-Commonwealth lands applied to the latter.[37] In this context, there are issues arising about national consistency of action.

5.38 Queensland Department of Environment and Science (DES) has, for example, highlighted its progress in having phased out use of long chained PFAS. It also specifically requested Defence to cease using fluorinated firefighting foams at the Army Aviation Centre at Oakley, stating that:

> Continued use of fluorinated fire-fighting foam, particularly PFOS and long chain PFAS foams, presents a risk of recontamination of remediated areas or release of additional contaminants.[38]

5.39 In this instance, Queensland is ahead of national regulation. In Chapter 3, the Sub-committee has called for Defence to improve the efficiency of work under PMAPs by responding to state-based environmental frameworks, which will implement the National Standard and the NEMP.[39]

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[34] JSCFADT, *Inquiry into management of PFAS contamination in and around Defence bases,* December 2018, p. 146.

[35] JSCFADT, *Inquiry into management of PFAS contamination in and around Defence bases*, December 2018, p. 150.

[36] JSCFADT, *Inquiry into management of PFAS contamination in and around Defence bases*, December 2018, p. 150.

[37] See also FSANZ, *Submission 14*—AQoN, p. 1, for a description.

[38] Qld DES, *Submission 7,* p. 3.

[39] Qld DES, *Submission 7,* p. 5.

National standards for food safety

5.40 In the JSCFADT 2016 review other concerns arose about national consistency in regulation of food safety. Food Standards Australia New Zealand (FSANZ)'s national standards for regulation of PFAS in food were said to have 'complicated provision of advice' to agricultural producers. The report anticipated rectification of this problem following review of PFAS in FSANZ's 2019 Total Diet Survey.[40]

5.41 However, in review of its regulation of PFAS for its dietary survey, FSANZ determined there was 'insufficient data' to make recommendations for a national regulatory approach. Instead, FSANZ set 'trigger points' for investigation for PFOS and PFHxS combined and for PFOA, which would be interpreted by state based authorities. FSANZ's Dr Scott Crear explained how the method works in practice:

> FSANZ proposed trigger points as a flag for when levels in the food were high, which warranted further investigation by regulatory authorities to look at what further they could do to minimise exposure. These trigger points represent the maximum concentration of the chemical that can be present in individual foods. If you have high consumers of these foods, we wanted to make sure they wouldn't exceed those relevant health based guidance values.[41]

5.42 Ms Tracy Hambridge, Principal Specialist Dietary Exposure Assessment, explained how the trigger points are set:

> The trigger points are established based on high consumption amongst children. Children eat more per kilo of body weight and have lower body weight, so they're at higher risk, usually, for exposure than the other groups in the population. They are protective in that sense. The other bits of information that you need is some more information on concentrations—how much are people actually consuming; how frequently are different foods being consumed; and what different types of foods are people

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[40] JSCFADT, *Inquiry into management of PFAS contamination in and around Defence bases*, December 2018, p. 150.

[41] Dr Scott Crear, General Manager Science and Risk Assessment, Food Standards Australia New Zealand (FSANZ) *Proof Committee Hansard,* Canberra, 15 June 2020, p. 2.

> eating? You can then try and bring all of that information together to make a conclusion about public health and safety.[42]

5.43 In this inquiry, the Sub-committee heard concerns from cattle growers in the Richmond area who, while being subject to restrictions imposed on consumption of their produce locally, were encouraged to sell it into the open market.[43] The Committee asked the Department of Health for clarification. Dr Lum advised:

> …. It's known in the work from Richmond, which is available on the PFAS website, that when they looked at things like mammal meat as well as eggs—particularly the yolks, not the whites—as well as some vegetables, there were higher levels of PFAS compared to the general background for those particular products. So the Department of Health, through Food Standards Australia New Zealand…provided trigger levels for state and territory health authorities, which have got the responsibility for food, to look at whether any investigation should occur for any particular types of food.[44]

5.44 In clarification on the livestock standards, Dr Lum advised:

> For example, for beef, the advice has been that, if it's at all possible and if producers of cattle know that their livestock is grazing in PFAS contaminated areas, they're fine to sell it in the open market because there's a dilution effect. But what they probably shouldn't do is consume a whole beast themselves over a period of time.[45]

5.45 The Sub-committee asked for further clarification on regulation of PFAS exposures in cattle through water consumption from DAWE. DAWE referred to FSANZ's trigger points for PFAS exposure of livestock, indicating that these are an analytical tool and not a safety standard.[46]

5.46 It further indicated that, while FSANZ sets tolerable daily intake (TDI) levels used by the NHMRC for its human water consumption guidelines,

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[42] Ms Tracy Hambridge, Principal Specialist Dietary Exposure Assessment, FSANZ, *Proof Committee Hansard,* Canberra, 15 June 2020, p. 3.

[43] HEN, *Submission 3,* Attachment 1.

[44] Dr Gary Lum, Principal Medical Officer, Department of Health, *Committee Hansard*, Canberra, 24 February 2020, p. 5.

[45] Dr Lum, Department of Health, *Committee Hansard*, Canberra, 24 February 2020, p. 5.

[46] DAWE, *Submission 2:1*—AQoN, Question 1, pp. [1–3].

DAWE does not issue water safety guidance for livestock. This is a local regulation matter, dealt with by state and territory jurisdictions.[47]

5.47 Asked about this at hearings Dr Crerar advised that the model provides flexibility: 'The advice upon which these trigger points are used varies across the jurisdiction depending on the specific issues at the particular site'.[48] He also made clear that the actual standard applied is a decision for the specific jurisdiction, which may mean more stringency:

> Sometimes they approach it more cautiously. In New South Wales—it might have been Williamtown—they halved the values and said, 'We want to investigate when it's half the trigger-point value.'[49]

5.48 FSANZ subsequently confirmed that it is currently in discussion with the PFAS Taskforce to provide targeted guidance and communication materials to ensure consistent application of its trigger points.[50]

5.49 As discussed previously, the FSANZ also prepares the Health Based Guidance Values (HBGVs) which are based on the maximum TDIs set for consumption of PFAS contaminants. These in turn are used in the formulation of key guidance documents for the national regulation of PFAS, including the revised NEMP and its appendices, including the *Guidelines for Managing Risks in Recreational Water* prepared by the NHMRC.[51]

5.50 The FSANZ has advised that, following a request from the Food Regulation Standing Committee,[52] it is currently undertaking monitoring of PFAS in the general food supply as part of the 27th Australian Total Diet Study. With food sampling completed in April 2020, the report is expected for publication in mid-2021.[53]

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[47] DAWE, *Submission 2:1*—AQoN, Question 2, pp. [4–5] see also Question 1, p. [3].

[48] Dr Crear, FSANZ, *Proof Committee Hansard,* Canberra, 15 June 2020, p. 2.

[49] Dr Crear, FSANZ, *Proof Committee Hansard,* Canberra, 15 June 2020, p. 3.

[50] FSANZ, *Submission 14*—AQoN, p. 2.

[51] National Health and Medical Research Council (NHMRC), *Submission 6*, p. [1].

[52] The Food Regulation Standing Committee (FRSC) is the sub–committee of the Australia and New Zealand Ministerial Forum on Food Regulation at //foodregulation.gov.au/internet/fr/publishing.nsf/Content/FRSC viewed 20 July 2020.

[53] FSANZ, FSANZ work on perfluorinated compounds, www.foodstandards.gov.au/consumer/

5.51 The NHMRC noted that its current guidance relating to PFAS is based on TDIs calculated by FSANZ for its 2017 *Perfluorinated Chemicals in Food*. The submission states that it will be monitoring FSANZ's dietary review, and the European Food Safety Authority (EFSA)'s ongoing review of TDIs for PFAS, as it prepares relevant guidance on chemical and water safety:

> This revision may have an effect on Australia's consideration of health–based guideline values, including those developed by NHMRC for water exposure. NHMRC will continue to monitor the outcomes of EFSA's recent changes and the upcoming review of this work by FSANZ. In addition, as part of the update to the Guidelines for Managing Risks from Recreational Water, the Recreational Water Quality Advisory Committee will review the methodology used to calculate chemical guideline values, including those for PFAS. [54]

Committee conclusion

5.52 The Sub-committee notes the ongoing community concern regarding contamination in non-Commonwealth sites and a lack of consistency in the Government's coordination of the response to this contamination.

5.53 The Government's response to *Recommendations 7, 8* and *9* indicate the challenges involved in forging national agreements about regulation of PFAS in Australia. The differences between federal and state-based regulation require extensive consultation and agreement. This in turn delays endorsement of international agreements which would control its use.

5.54 Each agreement discussed in this chapter is subject to this process. For people living in PFAS affected sites across Australia this means living with inconsistency in policies and regulatory approaches to local problems daily, and for years. This is an issue that potentially fuels the growth in class actions against the Commonwealth discussed in Chapter 3.

5.55 As shown in this chapter, the Commonwealth has the pieces in place and is making progress on national action. However, due to the need for negotiated agreement, it is moving slowly compared with some Australian jurisdictions and some other nations. Government has reported

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chemicals/Pages/Perfluorinated-compounds.aspx, viewed 22 July 2020.

[54] NHMRC, *Submission 6*, p. [1].

that it is now near achieving the envisioned framework for national PFAS management in its *National Standard for Environmental Risks Management of Industrial Chemicals* and the *NEMP.*

5.56 Once the National Standard is in place, the Government advises, Australia will be in a position to ratify the Stockholm Convention and ban PFOS and other PFAS substances. The Standard is, however, not expected to be implemented until 2022—another long wait in a nine year ratification process. Queensland's progress on this matter is a best practice model commended internationally, which could assist other jurisdictions to begin their transition to phase out PFAS permanently.

5.57 The Sub-committee concludes that some decisions impacting people in PFAS communities are dependent on Government's will to act, for example, to sanction review of underpinning health judgements and guidance values, as discussed in Chapter 4, and to ensure the new regulatory standards are enforceable across all jurisdictions. The Committee notes that the National Standard is designed to achieve that goal.

5.58 Meanwhile, the Sub-committee anticipates that the revised NEMP should consolidate action on harmonisation of standards and approaches across Australia. The Sub-committee notes that the endorsed version has now been published on the DAWE website.

5.59 The Committee will be monitoring NEMP implementation and expects the PFAS Taskforce might play an important role in coordinating this process, The Sub-committee looks forward to following developments and to seeing further updates on the PFAS News tab.

5.60 In the broader international context, the Committee also expects the Government will prioritise progress in ratifying and expediting the listing of PFAS substances under the Stockholm Convention, and recommends that this progress should be documented in a timeline.

Recommendation 10

The Committee recommends that the Government expedite the work to ban the use of, contain, and ultimately safely destroy, long chain PFAS-based firefighting foams (including those containing PFOS, PFOA and PFHxS), with the objective of urgently ratifying the listing of PFOS and expediting the process for PFOA and PFHxS in the event they are listed under the Stockholm Convention on Persistent Organic Pollutants.

The Committee recommends that the Government provide a timeline for the processes identified in the previous recommendation.

Senator the Hon David Fawcett

Chair, Joint Standing Committee on Foreign Affairs, Defence and Trade

August 2020

Dr John McVeigh MP

Chair, PFAS Sub-committee of the JSCFADT

August 2020