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President

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Mr Stephen Palethorpe  
Committee Secretary  
Senate Standing Committees on Rural and Regional Affairs and Transport  
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Dear Mr Palethorpe

***RE: Inquiry into the Agricultural and Veterinary Chemicals Legislation  
Amendment Bill (the Bill)***

On behalf of NSW Farmers, I welcome the opportunity to contribute to the Senate Rural and Regional Affairs and Transport Legislation Committee's inquiry into the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012 (the Bill).

NSW Farmers is Australia's largest state farming organisation representing the interests of the majority of commercial farm operations throughout the farming community in NSW. The availability of effective and affordable agricultural and veterinary chemicals (AgVet Chemicals) is an important part in maintaining and improving the productivity of Australian agriculture, and the financial sustainability of our members.

For this reason, NSW Farmers has committed itself over the term of the Forty Third Parliament to representing the views of its members in response to the Government's proposed reforms to the regulation of AgVet Chemicals. In particular this has included providing submissions to the Department of Agriculture, Fisheries and Forestry (DAFF) in response to the 'Better Regulation of Agricultural and Veterinary Chemicals Policy Discussion Paper (2011); as well as to both exposure drafts of the Bill released for consultation. On this basis, NSW Farmers seeks, in the main, to rely upon these submissions. These submissions have been attached to this letter.

In addition to this NSW Farmers seeks to make the following brief comments.

**Failure in Policy Development**

The Productivity Commission's (PC) recently released research report, *Regulatory Impact Analysis: Benchmarking* outlines several barriers to improving regulatory

outcomes through the use of the regulatory impact analysis (RIA). Relevant to the consideration of the Bill, NSW Farmers believes that the following barriers identified by the PC are applicable:

- 'lack of commitment' to utilising RIA as a tool for developing policy; and
- 'Inadequate analysis for many proposals with significant impacts'.

With regard to the former, the PC outlined that the benefit of using RIA is weakened in instances in which 'policy options have been determined, narrowed or ruled out by ministers prior to RIA being undertaken'. The Better Regulation of Chemicals policy was announced by the Government on 14 August 2010, just seven days prior to the 2010 Federal Election, and without any substantive consultation with impacted industries. Subsequent to the announcement consultation with industry, including the development of the *Better regulation of agricultural and veterinary chemicals regulation impact statement* (RIS), is best characterised by the description used by the PC as being an 'ex post justification' for the implementation of the policy.

With regard to the latter, NSW Farmers has previously raised concerns about the adequacy of the analysis within the RIS with regard to the re-registration scheme. This inadequacy may be seen in the failure to undertake a quantitative assessment of the benefits and costs of the proposed reform, as well as the associated failure of not considering the benefits and costs of the re-registration scheme against the status quo. Further, the RIS failed to quantify costs to industry caused by losses to productivity as a result of losing access to safe and effective chemicals.

### **Industry Consultation**

NSW Farmers has outlined within our submissions that there is a greater need for the APVMA to formally consult with the agriculture industry on its general operation, as well as in specific operations that will impact on industry. In particular NSW Farmers believes that the APVMA should be required to formally consult with impacted industries as part of the reconsideration of a registration/approval. The impact of the recent changes to the available uses of fenthion upon the horticultural industries outlines the need for increased frequency and depth of communications between the agriculture industry and the APVMA.

Along with the proposed reforms, the Government is further developing mechanisms to increase the reliance of the APVMA on cost recovery arrangements to fund its operations. Whilst NSW Farmers is opposed to this on the basis of the public good that is generated from the operation of the APVMA, if this is to progress we argue that the need for the APVMA to consult with the agricultural industry is further heightened. This is because any increase in cost recovery from chemical registrants will ultimately be borne by the end users of the chemical products as the cost of these levies are passed downstream.

### **Commencement of Reforms**

NSW Farmers notes that section 2 of the Bill provides for the commencement of the reforms on 1 July 2013. Given the changes that will be required to the operation of the APVMA to undertake the new functions within the Bill, NSW Farmers has concerns on whether this commencement date is viable.

NSW Farmers believes that the potential negative impact of these reforms on the agriculture industry is serious and need resolving prior to the commencement of the legislation. The Chair of our Agricultural and Veterinary Chemicals Committee, Mr Reg Kidd has indicated that he will make himself available to further assist the Committee's deliberations at any public hearing that may be convened.

Yours sincerely

Fiona Simson  
**President**