

Inquiry into the independence of regulatory decisions made by the Australian Pesticides and Veterinary Medicines Authority (APVMA)

Additional information to the submission by the Australian Government Department of Agriculture and Water Resources

Following the Department of Agriculture and Water Resources attendance at the Senate Rural and Regional Affairs and Transport References Committee on 20 November 2018, the department would like to provide additional information in relation to establishing an APVMA Governance Board and consultation that was undertaken.

Rationale

The decision to establish a governance Board follows two recent reviews – the Australian National Audit Office (ANAO) review of the APVMA'S implementation of 2014 legislative reforms¹ and the PriceWaterhouseCoopers (PwC) review of the APVMA's cost recovery arrangements² – that have highlighted the need for improved governance arrangements for the APVMA. The APVMA is one of only a few corporate Commonwealth entities (CCE) without a board. Despite its complex regulatory responsibilities – and the critical impact of its decisions on human health, the environment and trade – all responsibility for its strategic leadership, governance and day-to-day operations rests with the CEO. Approximately 90 per cent of the government's 70 CCE have boards that act as the accountable authority.

The board will position the APVMA to become a modern, adaptive and sustainable regulator in regional Australia; and deliver flow-on effects to stakeholders, such as improved client services and a reduced regulatory burden, which will help lower the costs of doing business.

Board functions

The board will:

- ensure the proper, efficient and effective performance of the APVMA's functions
- determine the policies, objectives and strategies to be followed by the APVMA
- be the accountable authority under the *Public Governance, Performance and Accountability Act 2013*.

The APVMA Chief Executive Officer (CEO) will:

- continue to have responsibility for the day-to-day management and decision-making of the APVMA (e.g. individual assessment decisions and investigative and enforcement activities), but will be assisted by the board with broader input on strategic issues
- remain the Agency Head under the *Public Service Act 1999*.

¹ Australian National Audit Office, Pesticide and Veterinary Medicine Regulatory Reform, June 2017, www.anao.gov.au/work/performance-audit/pesticide-and-veterinary-medicine-regulatory-reform

² PricewaterhouseCoopers, Australian Pesticides and Veterinary Medicines Authority – Review of Cost Recovery Arrangements, October 2017, www.agriculture.gov.au/ag-farm-food/ag-vet-chemicals/apvma-cost-recovery-review

The board will be part-time, skills-based, and comprise five members, including a chair (part-time), three board members (part-time) and the APVMA CEO as an *ex officio* member (full time).

Appointments

Board members will collectively possess an appropriate mix of skills and expertise to govern the APVMA effectively and enhance its performance. Appointed board members will have skills, qualifications and/or experience in at least one of the following fields:

- financial management
- law
- public sector governance (including performance management and reporting)
- risk management
- agricultural, veterinary and/or chemical science
- public health and/or occupational health and safety.

Board members (excluding the CEO) will be appointed by the Minister for Agriculture and Water Resources (the minister) for a four year term and may be reappointed for one further term. To ensure the board remains functional and highly effective, appointed board members may be terminated on the basis of unsatisfactory performance.

In line with standard government appointment processes, the selection process will be transparent and merit-based, with positions to be advertised nationally and a selection panel convened to assess and recommend candidates to the minister.

The current CEO will serve out his term to 12 November 2022, and future CEOs will be appointed by the board in consultation with the minister. Future CEOs may be terminated by the board, in consultation with the minister, on the basis of unsatisfactory performance.

Recruitment and termination arrangements for the board and future CEOs will ensure clear lines of accountability between the minister, the board and the CEO.

The minister will retain existing powers to direct the APVMA and will be provided with the power to direct the board in the performance of its functions. The board will have the power to direct the CEO in the performance of his/her duties. This will ensure the performance of the board and the CEO.

Stakeholder consultation

Prior to the government amendment to The Agricultural and Veterinary Chemicals Legislation Amendment (Operational Efficiency) Bill 2017 to establish the board, the department undertook consultations with affected stakeholders (those that would be paying for the Board, and the NFF) to discuss the government's intention. This included that the board would be skills-based, be the accountable authority under the PGPA Act 2013, its proposed roles, and that it would not be involved in the day-to-day decision making of the APVMA.

- 9 November 2017, CropLife Australia
- 14 November 2017, Chemistry Australia
- 15 November 2017, National Farmers' Federation (NFF)
- 23 November 2017, Veterinary Manufacturers and Distributors Association (VMDA)
- 29 November 2017, Animal Medicines Australia (AMA)
- 8 December 2017, Accord Australasia
- 26 February 2018, CropLife Australia
- 28 March 2018, CropLife Australia and the VMDA
- 5 April 2018, Animal Medicines Australia

- 11 April 2018, NFF Federation Farming Systems Committee
- 3 May 2018, AMA Issues Management Group

Following the release of the government amendments to the Agricultural and Veterinary Chemicals Legislation Amendment (Operational Efficiency) Bill 2017 on 8 May 2018 (published on the Parliament of Australia website), the department consulted further with affected stakeholders.

- 13 June 2018, CropLife Australia letter to the Minister in regard to the Board
- 25 June 2018, Minister's response to CropLife Australia and also wrote to AMA
- 6 July 2018, Minister wrote to VMDA and NFF
- 18 July 2018, the department met with CropLife Australia, Animal Medicines Australia, the Veterinary Manufacturers and Distributors Association and the National Farmers' Federation to jointly develop a draft board charter and discuss improvements to the proposed government amendments to establish the board.