

2014

# FSANZ GOVERNANCE FRAMEWORK

This document provides information about the governance of Food Standards Australia New Zealand.

Reviewed in July 2014.



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## 1. Introduction

Commonwealth agencies such as FSANZ operate in an environment in which intended outcomes are to be achieved in a period of fiscal constraint when collaboration is essential to identify and achieve a wide range of expectations. Our governance framework contributes to strong and sustainable performance and builds confidence in our capacity to respond to challenges.

The governance and financial management arrangements for FSANZ are determined by our legislative framework—the *Public Governance, Performance and Accountability Act 2013 (the PGPA Act)*, the *Public Service Act 1999 (the PS Act)* and the *Food Standards Australia New Zealand Act 1991 (the FSANZ Act)*.

### The FSANZ Governance Policy Statement

The Board and Executive are committed to the good governance of FSANZ. Governance arrangements are designed to ensure that decision making is authorised and accountable.

Good governance requires:

- the Board and senior management guiding and monitoring our work
- management and staff disclosing all material matters in a timely and accurate manner
- policies to manage our relationships with stakeholders—including employees, Parliament and the public.

The corporate governance framework developed under this policy details the systems, policies and procedures that have been implemented to ensure good governance. The framework demonstrates our commitment to effective governance, improved performance and public accountability.

## 1. The FSANZ legal and policy frameworks

### 2.1 *Public Governance, Performance and Accountability Act 2013*

FSANZ is a Commonwealth corporate entity for the purposes of the *Public Governance, Performance and Accountability Act 2013 (the PGPA Act)*.

The Board is the accountable authority for FSANZ and has statutory responsibility for developing food regulatory measures.

The Board has established a Charter to guide its operations.

The CEO is a member of, and appointed by, the Board.

The Authority's staff are engaged by the CEO and employed under the Public Service Act.

### 2.2 *Public Service Act 1999*

The Public Service Act provides for a public service which has a strong performance orientation and is ethical in its approach to governance and program and service delivery.

The responsibilities of the CEO include providing leadership, strategic direction and a focus on results.

The APS Values include the statement that the APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the government.

The APS Employment Principles include the principle that decisions relating to engagement and promotion are based on merit. The APS recognises the diversity of the Australian community and fosters diversity in the workplace.

## **2.3 Food Standards Australia New Zealand Act 1991**

### **Object of the FSANZ Act**

The object of the Act is to ensure a high standard of public health protection throughout Australia and New Zealand by means of the establishment and operation of a joint body known as Food Standards Australia New Zealand to achieve the following goals:

- a high degree of consumer confidence in the quality and safety of food produced, processed, sold or exported from Australia and New Zealand
- an effective, transparent and accountable regulatory framework within which the food industry can work efficiently
- the provision of adequate information relating to food to enable consumers to make informed choices.

### **Functions of the Authority**

FSANZ's functions are set out in Section 13 of the Act. These legislative requirements determine the way we do our core business: developing food standards for the food regulatory system and working with other parties in the food regulatory system to assure confidence in the safety of food sold in Australia and New Zealand.

### **Powers of the Authority**

The Authority has powers enabling it to do all things necessary or convenient to be done in connection with the performance of its functions.

The powers of the Authority are listed in section 14 of the FSANZ Act.

### **Ministerial Direction**

The Australian Minister may give the Authority directions, after consulting with the Legislative and Governance Forum for Food Regulation (the Forum, formerly the Food Regulation Ministerial Council).

## **2.4 The Agreement between Australia and New Zealand Concerning a Joint Food Standards System and the Intergovernmental Food Regulation Agreement**

There is a treaty-level agreement between the Governments of Australia and New Zealand that establishes FSANZ's role in setting and maintaining trans-Tasman food standards.

The Intergovernmental Food Regulation Agreement is between the Commonwealth, the states and the territories and establishes a co-operative federal system of food regulation for Australia.

## 2.4a Legislative and Governance Forum on Food Regulation

The Forum sets policy guidelines for the development of food standards by FSANZ and is empowered, subject to having asked FSANZ to review its approval of a standard, to amend or reject a standard that is developed by FSANZ prior to the standard being notified. The Forum is advised by the Food Regulation Standing Committee (FRSC), which comprises senior government officials from the Commonwealth and New Zealand, and the states and territories. The Forum will also consult with stakeholders on developing policy guidelines. FSANZ is an observer at Forum meetings.

The Chair of the Forum is the Commonwealth Assistant Minister for Health, who also has ministerial responsibility for FSANZ.

Responsibility for developing food standards sits with FSANZ, which also formally develops and reviews variations to the Food Standards Code. FSANZ must notify its decisions to the Forum. Ministers may return any newly developed standard to FSANZ for review.

Formal meetings of the Forum occur once or twice each year. They are organised by the Food Regulation Secretariat, based in the Department of Health. Policy guidelines issued by the Forum are published on the [FSANZ](#) and the [Department of Health](#) websites

FSANZ must have regard to<sup>1</sup> the Forum's guidelines when it develops or reviews food standards.

## 2. The FSANZ Governance Framework

The framework describes the system the Board has established to assure itself and its stakeholders that it has addressed major indicators of good governance in a manner contributing to high performance.

The principal elements of the governance framework are leadership; stakeholder engagement and the development of collaborative partnerships; risk engagement; accountability and clear reporting of finances and operations; planning, performance measurement and evaluation; and information and decision support.

### 3.1 Leadership, ethics and culture in FSANZ

The Board and the Executive are the principal corporate leadership groups within FSANZ. They set the tone for the agency's operations by modelling good governance behaviours and demonstrating a commitment to achieving Government objectives through auditable processes.

Leaders have dual responsibilities around governance including:

- ensuring implementation, evaluation and improvement of governance structures and processes; and
- enacting and influencing good governance through their own performance and behaviours.

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<sup>1</sup> The Forum was given power to issue guidelines in order that it could direct, rather than react to, decisions of FSANZ. Guidelines must be consistent with the objectives set in subsection 18(1).

The Board and Executive promote a learning environment that encourages innovation and continuous improvement to achieve better outcomes consistent with efficient, effective and ethical delivery.

## 3.2 Stakeholder Engagement

FSANZ has an open and transparent approach to stakeholder engagement. We actively seek and encourage a culture of cooperation with a wide range of stakeholders. Stakeholder input is a key consideration in developing standards and for all FSANZ decisions.

For successful food regulation, it is imperative to build and maintain stakeholder trust in the fairness and objectivity of the standards developing agency. FSANZ attempts to earn and maintain this trust by adopting a transparent approach to our dealings with:

- the public, consumer organisations and the media
- Australian, state and territory governments and the New Zealand Government
- primary producers and the manufacturing sector
- retail outlets and food services providers
- public health professionals
- international agencies and organisations and
- our partners in the scientific community.

### Minister and Parliamentary liaison

FSANZ provides advice and information to the office of the Assistant Minister for Health. We seek feedback on our performance in this function from the Department's Ministerial and Parliamentary Support Branch and we measure efficiency annually through the Portfolio Budget Statement (PBS) measures. We also provide information on FSANZ-related matters to other agencies such as the Department of Health, for inclusion in correspondence and briefings. There are principles in place for communicating at this level and compliance with these principles is considered very important in governing this relationship effectively.

### External stakeholder communication

FSANZ makes information available to all stakeholders in a number of ways including:

- Notification Circulars (almost 5000 subscribers) which include notices that are required to be given to the public, to submitters and appropriate government agencies, under the *Food Standards Australia New Zealand Act 1991*
- email newsletters such as Food Standards News (more than 6,500 subscribers)
- providing information in multiple languages on our website
- social media, including YouTube, Twitter and Facebook

### Stakeholder groups

FSANZ has established three key stakeholder groups to exchange information and enhance our understanding of the issues facing these groups. These groups are the:

- Retailers and Manufacturers Liaison Committee (industry representatives)
- Consumer and Public Health Dialogue (consumer and public health representatives)
- Jurisdictional Forum (government representatives).

## Internal stakeholder forums

There are two key internal stakeholder forums in FSANZ. They are the Management Group Meeting and the Staff Forum meetings.

The Management Group Meeting is comprised of all Section Managers, Unit Managers and Specialist Advisors. The group meets formally with the Executive each week. The role of the group is to allow for information sharing and the flow of information from the executive to sections managed by participants.

The Staff Forum is a representative cross agency group which meets to discuss and follow through on key matters for FSANZ staff, primarily relating to workplace conditions and practices. A forum representative also meets regularly with the Executive to report on the forum's activities. Issues discussed include: succession planning, workloads, professional development, staff retention, staff survey planning and the FSANZ Enterprise Agreement.

Internal stakeholder engagement is a priority for FSANZ and seen as pivotal to communicating well with staff and effectively governing staff relationships in the agency.

## 3.3 Risk Engagement

Responsibility for risk management in FSANZ sits primarily with the Board, which has obligations under the PGPA Act. However, that responsibility cascades through the agency and is shared by all staff. All staff must be accountable for the effective and efficient use of Government resources. Good risk management supports this aim.

Food-related risks are analysed using internationally accepted methodologies that are described in *Risk Analysis in Food Regulation*.

The Board has established an integrated risk management system. Risks have been identified and rated. Higher risks have been assessed to ensure that appropriate mitigation action is taken. Risk is identified regularly and the development of risk management strategies is an essential aspect of project development.

The inter-relationship between these processes gives the FSANZ Board, Finance Audit & Risk Management Committee (FARMC), Executive and staff a sound platform on which to coordinate activities to manage and control potential and identified agency risks.

### Risk assessment

Identified risks are initially assessed and rated for inherent levels of risk. Following the development of mitigation strategies, all risks are re-assessed for residual risk<sup>2</sup>.

Any risk with an initial inherent rating of *high* must be presented to FARMC for consideration. After the development of mitigation strategies, FARMC, on behalf of the Board, reviews the plans to mitigate these risks. It is intended to reduce the risk level to low in each case.<sup>3</sup>

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<sup>2</sup> Residual risk is the level of risk that exists after mitigation

<sup>3</sup> Risk rating presentation and matrix <F:\FSANZ Common\FSANZ Governance Documentation\Risk Appetite - FARMC FINAL2 1.ppt>

## Fraud control

FSANZ fraud control policy and plan are incorporated into the integrated risk management system. There is a CEI which outlines governance responsibilities relating to fraud prevention for all staff. Preparation of this plan represents one of FSANZ's obligations in complying with the Commonwealth Fraud Control Guidelines. The fraud control framework includes undertaking risk assessments, education and awareness, fraud recording, reporting and evaluation of the effectiveness of mitigation strategies. These actions underpin a robust approach to fraud prevention and ultimately, the promotion of voluntary compliance.

In an environment of increasing growth in business, ongoing Parliamentary and public scrutiny and an equally increasing sophistication in attempts to obtain fraudulent access to the services and resources of FSANZ, fraud control requires vigilance and robust prevention planning.

Fraud and corruption prevention in FSANZ is everyone's responsibility.

## Conflicts of Interests Policy

Avoiding conflicts of interest is an important part of sound governance. FSANZ Board members are required by law to declare any possible conflicts of interest and exclude themselves from any decision making that could be considered a conflict. Under subsection 125(6) of the *Food Standards Australia New Zealand Act 1991*, entries recorded in the register of Board members' interests must be published on the Internet. The register is revised regularly.

The Board Charter outlines the requirements for Board members regarding the declaration of conflicts of interest.<sup>4</sup> The Board will consider declared conflicts of interest and determine an appropriate action in each case.

The Charter states that Board members will:

- for each meeting, consider each agenda item and identify any potential conflicts of interest and declare them to the Board before or at the start of each meeting and
- follow the "*FSANZ Guide to Declarations of Interests*" for the declaration and registration of material personal interests, and act consistently with FSANZ Act and PGPA Act requirements in respect of member's personal interests.

## 3.4 Accountability and clear reporting

FSANZ has incorporated its external reporting obligations into its daily operations. Through its website it provides a high level of transparency about its operations, particularly in the performance of its standards setting function.

## Internal Conformance – Board, Finance Audit and Risk Management Committee

### Board

FSANZ has a twelve member Board, which has a Charter. Directors are appointed by the Australian Government and include three members nominated by the New Zealand Government. The FSANZ CEO is *ex officio* a director on the Board.

The Board meets regularly and meeting outcomes are published on FSANZ website.

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<sup>4</sup> FSANZ Board Charter <F:\FSANZ Common\FSANZ Governance Documentation\Board Charter 2005 Final1.doc>

## ***FARMC***

The FSANZ Board has established the FARMC, which meets regularly and is supported by a Charter. It is through this committee that matters relating to audit and risk management are monitored and continuous improvement is reported.

In support of the FARMC, FSANZ has an active Executive group and senior management group who meet weekly and there is a specific position, in the Board Secretariat responsible for support to FARMC.

FSANZ also has a structure in place that supports separation of duties for the operational and strategic management of governance across the agency.

## **External Accountability**

Through the Department of Health, FSANZ must outline projected budget expenditure for program delivery in the annual Portfolio Budget Statements (PBS).

Program outcomes are reported to Parliament through the Annual Report which is also made available publicly after it has been tabled in Parliament.

The FSANZ Board and Executive ensure that full compliance with reporting requirements of the PGPA Act and the FSANZ Act are met.

## **3.5 Planning & Performance Monitoring**

### **Planning**

FSANZ manages financial and enterprise or non-financial planning at the strategic and operational level. The process is overseen by the Board, FARMC and Executive.

The Board has established a three year Corporate Plan 2012-15 and makes annual business plans. All Sections must develop annual plans annually that reflect FSANZ strategic and operational goals. In addition, individual officers must complete a Performance Management and Development (PMD) review annually.

The planning cycle follows the financial year calendar and includes key triggers such as the publication of the PBS and Annual Report.

Executive conducts monthly financial planning meetings with the Chief Finance Officer (CFO) who formalises the reports to FARMC. Routine, twice yearly audits of finance are conducted by the ANAO.

### **Performance Monitoring**

Performance against PBS metrics is reported and made available to the public through the Annual Report. The PGPA Act establishes a new requirement to develop and report performance measures. That requirement is to be implemented by 2016.

### ***Board performance***

There is no formal legislative requirement to review the performance of Commonwealth boards against a Charter or equivalent document. However, FSANZ considers that governance of Board performance is important. FSANZ has engaged Cinnabar International Pty Limited to conduct an independent performance review of the Board. The review included Board members whose terms

expired in June 2013, as well as existing and new Board members, and is scheduled to be completed in May 2014.

### **3.6 Information and Decision Support for Board, FARMC & Executive**

FSANZ Board and Executive are supported through the Board Secretariat. All records of Board activity are maintained in accordance with relevant legislation.

FARMC meetings are also supported by the secretariat and records of meeting outcomes are maintained.

Executive and senior management meeting outcomes are also made available internally to all staff.

### **3.7 Review and evaluation of FSANZ Governance Framework**

Accountability for evaluating the governance framework sits with the General Manager, Food Safety and Regulatory Affairs, in conjunction with Executive and relevant FSANZ staff.

Annual evaluation is part of the planning schedule. The evaluation process commences after the PBS is tabled in Parliament and the planning for the new financial year is completed. It is considered to be an important process that supports the ongoing maturity and effectiveness of FSANZ risk management process.

Formal external review of FSANZ governance is provided through the internal audit program. Due to the low risk nature of the work carried out by FSANZ, external review can be carried out less frequently. Reports from such a review can be used as benchmark information and contribute to the continuous improvement of governance.

FARMC will receive evaluation reports and outcomes will be included in the agency Annual Report.

### **3.8 Dealing with governance breaches and complaints**

A balanced governance system has an effective management system, a dynamic risk management system and a robust internal audit program. FSANZ has such a mechanism in place for detecting, recording and dealing with any governance breach or complaint.

The internal audit program and external audit functions are good mechanisms for measuring effective governance and assessing if a governance breach has occurred. Internal audit enables governance processes to be assessed, classified and investigated to determine if a breach has occurred. It can identify the cause and ultimately make recommendations for continuous improvement to reduce the chance of recurrence. This system has proven to be adequate for addressing any governance related matters which have arisen.

There is a designated complaints officer role and a complaints mechanism in place in FSANZ which is outlined in the FSANZ Service Charter.<sup>[1]</sup> In addition, arrangements have been implemented for the purposes of the *Public Interest Disclosure Act 2013* (Cth).

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<sup>[1]</sup> FSANZ Service Charter <F:\FSANZ Common\FSANZ Governance Documentation\Food Standards Australia New Zealand Board.docx>