



AUSTRALIAN  
**FOOD &  
GROCERY**  
COUNCIL

# **AFGC SUBMISSION**

---

W1070 PLAIN ENGLISH ALLERGEN  
LABELLING (January 2016)

---

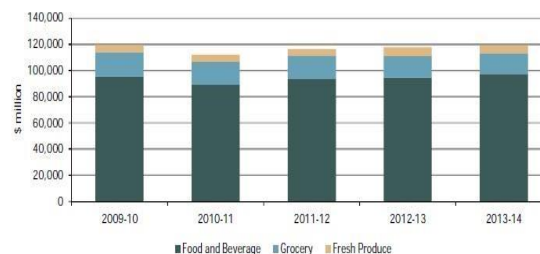
*Sustaining Australia*

## PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, drink and grocery manufacturing industry.

The membership of AFGC comprises more than 190 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the processed food, beverage and grocery products sectors.

Figure 3.1: Composition of the defined industry's turnover (\$2013-14)<sup>[1]</sup>



Source: Based on ABS, catalogue number 8221.0, 8159.0 and 8155.0

Australia's food and grocery manufacturing industry takes raw materials and farm products and turns them into foods and other products that every Australian uses every day. With an annual turnover in the 2013-14 financial year of \$118 billion, Australia's food and grocery manufacturing industry makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity. It adds over \$32 billion to the value of the products it transforms.

Manufacturing of food, beverages and groceries in the fast moving consumer goods sector is Australia's largest manufacturing industry. The diverse and sustainable industry is made up of over 26,651 businesses and represents 30% (almost one third) of the total manufacturing industry in Australia.

The food and grocery sector accounts for over \$61.7 billion of the nation's international trade in 2014-15, with a trade surplus worth over \$10 billion to the Australian economy in 2014-15. These businesses range from some of the largest globally significant multinational companies to family-based small and medium enterprises.

The food and grocery manufacturing sector employs more than 322,900 Australians, paying around \$16.1 billion a year in salaries and wages.

Many food manufacturing plants are located outside the metropolitan regions. The industry makes a large contribution to rural and regional Australia economies, with over 40% of the total persons employed being in rural and regional Australia. It is essential for the economic and social development of Australia, and particularly rural and regional Australia, that the magnitude, significance and contribution of this industry is recognised and factored into the Government's economic, industrial and trade policies.

The contribution of the food and grocery sector to the economic and social well-being of Australia cannot be overstated. Australians and our political leaders overwhelmingly want a local, value-adding food and grocery manufacturing sector.

[1] Data source: AFGC and EY State of the Industry 2015: Essential Information: Facts and Figures

## INTRODUCTION

The Australian Food and Grocery Council (AFGC) makes this submission in response to the Food Standards Australia New Zealand (FSANZ) consultation on “*Plain English Allergen Labelling*” [W1070, November 2015].

The AFGC has consulted with the members of the AFGC Allergen Forum and provides the following feedback to FSANZ for consideration.

## OVERALL POSITION

The AFGC notes that the purpose of this consultation paper is to identify the current terminology that is being used to declare allergens, and to collect evidence on whether consumers may experience difficulties identifying the presence of allergens from this terminology. The AFGC is not able to provide specific evidence in relation to the issues identified by FSANZ however, we provide general feedback for consideration.

The AFGC **supports** a review of allergen labelling terminology as identified in the consultation paper – these issues have the potential to create uncertainty for industry and confusion for the allergic consumer and their carers.

The AFGC **recommends** that FSANZ proceed with a review of allergen labelling terminology, recognising that regulatory intervention may not be required in each case:

Labelling Terminology Issue	Regulatory intervention required	Recommendation
<b>Fish declarations</b>	Yes	Review terminology used in the Code to ensure consistency throughout all sections.
<b>Cereal declarations</b>	Yes & No	Review the terminology used in Standard 1.2.3 for the declaration of “cereals containing gluten”.  Industry guidance to be reviewed and updated.
<b>Tree Nut declarations</b>	Yes & No	Definition in Schedule 22 to be reviewed for applicability.  Industry guidance to be provided.
<b>General issues associated with terminology</b>	No	Further information required to determine what (if any) issues and potential solutions exist.

Further, the AFGC **recommends** that FSANZ and/or an industry association conduct a targeted survey in relation to existing labelling practices of industry to further inform the review. The AFGC was unable to facilitate the conduct of such a survey due to the timing of the consultation over the Christmas/New year period, but would be willing to work with FSANZ to carry out a survey in 2016.

## GENERAL COMMENTS

### Consumer Needs

Allergic consumers and their carers need clear and consistent information on food packaging and in labelling in order for them to make an informed choice about the suitability of a food product in their diet.

In the absence of clear guidance, inconsistencies have developed which in part have been addressed by industry guidance provided by both the AFGC and the Allergen Bureau.

### The ANZ Food Standards Code (the Code)

The issues identified in the Consultation Paper have arisen due to the complex and inter-related nature of the Code – in particular that definitions for one standard or group of standards do not necessarily apply to other standards, leading to confusion for manufacturers developing labels for food products. The AFGC notes that a more general review of Code terminology has been proposed by the FSANZ / Jurisdiction / Industry panel assembled to identify future reform priorities, and this consultation highlights the need for such a review.

### AFGC Guide to Allergen Management and Labelling

This Guide is relevant to all sectors of the food industry involved in the supply, handling, production, distribution and sale of foods. It provides recommendations for the production and labelling of foods containing allergenic substances as defined in the Australia New Zealand Food Standards Code (“the Code”).

This guide is supported by the Allergen Bureau and by additional resources and information available on both the AFGC and Allergen Bureau websites.

This guide provides:

- an overview of the requirements outlined in the Code regarding food allergens that require labelling;
- an overview of food allergy and food intolerance;
- guidance on the management of food allergens in the manufacture and supply of foods;
- information on testing for allergens; and
- guidelines for declaring mandatory and voluntary allergen information for foods.

FSANZ has acknowledged this Guide in the consultation paper.

The AFGC is currently undertaking a review of this Guide with a view to providing further guidance to industry (including Importers).

The AFGC is interested in the outcomes of this current review which may provide opportunities to update and refine the guidance provided in this document to complement or support changes or additions to the Code.

## Fish Declarations

FSANZ notes that molluscs and crustaceans are allergenically distinct from finfish. The terms 'fish' and 'seafood' as defined in the Code are not useful in the context of allergen declarations, being inconsistent as to the inclusion within their scope of finfish, crustaceans and/or molluscs.

The AFGC agrees that regulatory reform is necessary to better align Code definitions to their intended purposes. The AFGC, without conducting any research into the question, considers it likely that consumers would not understand the term 'fish' to extend to molluscs or crustacea and that clarity would be best served by listing each class separately as appropriate in its context of use.

## Cereal Declarations

FSANZ notes that the requirement for declaration of "cereals containing gluten" could be viewed as a requirement to declare whether or not a food contains gluten, rather than a requirement to declare the specific cereal ingredient(s) that is the origin of the gluten.

This highlights a key issue for allergen declarations, which is whether the requirement is to declare the substances that are present in the food or the class of allergen to which it belongs. This is a question on which the allergic community should have some say.

The AFGC Guide recommends that the gluten source (grain source) is qualified in the ingredient list at all times.

## Tree Nut Declarations

FSANZ notes that further clarity is required as to which tree nuts are most relevant to food allergy in Australia and New Zealand.

The AFGC adds that Schedule 22 – Foods and Classes of Foods - provides a list of tree nuts that includes coconut, where coconut is specifically excluded under clause 1.2.3-4 of Standard 1.2.3. This does not represent a direct regulatory conflict, in fact in legal terms it rather underscores the importance of the exclusion in Standard 1.2.3. However, appropriate guidance to industry continues to be necessary to ensure the scope of the mandatory tree nuts declaration is properly understood. Schedule 22 of the Code provides -

*Nuts and seeds*

### ***Tree nuts***

*Tree nuts are the seeds of a variety of trees and shrubs which are characterised by a hard inedible shell enclosing an oily seed. The seed is protected from pesticides applied during the growing season by the shell and other parts of the fruit. The edible portion of the nut is consumed in succulent, dried or processed forms.*

*Commodities: Almonds; Beech nuts; Brazil nut; Cashew nut; Chestnuts; Coconut; Hazelnuts; Hickory nuts; Japanese horse-chestnut; Macadamia nuts; Pecan; Pine nuts; Pili nuts; Pistachio nuts; Sapucaia nut; Walnuts.*

Allergy and Anaphylaxis Australia provide a tree nut allergen card on their website which is slightly different to the list in Schedule 22 - see <https://www.allergyfacts.org.au/images/pdf/treenutf.pdf>

The AFGC cautions against a focus on ANZ alone – tree nuts consumed or used as food ingredients in other parts of the world should also be considered as they may be incorporated into food imported into Australia or New Zealand. For example, the AFGC is aware of shea and illipe fat being used as part of chocolate. Clarification is needed as to whether these constituted ‘tree nuts’ and thus declared as allergens.

## General Issues with Terminology

FSANZ notes it does not have enough information to determine if there is a widespread practice of using unfamiliar terminology for allergen declarations. It is possible that the use of such terminology is uncommon, and so does not pose a risk. Also, the voluntary use of a ‘contains’ statement on labels (i.e. ‘contains allergen x, allergen y...’), may provide additional information to consumers that can clarify the presence of an allergen.

The AFGC is unaware of any attempt by industry to ‘hide’ allergen declarations, and in fact such an approach would be highly counterproductive in the context of Australia’s product liability regime, where the absence of appropriate label information is identified as a possible ‘defect’ in the product that creates the potential for strict liability for any consequential loss.

The AFGC Guide encourages the use of plain English terms consistent with the Code.

## SPECIFIC FEEDBACK

### Use of the term ‘fish’ in Standard 1.2.3

1. Are the current requirements to declare fish and fish products in Standard 1.2.3 clear on what foods/ingredients must be captured by the declaration? If not, please explain the problems associated with declaring these foods and ingredients on food labels.

No.

2. Do food manufacturers understand that the allergen declaration requirement for fish and fish products includes finfish, crustacea and molluscs?

No, especially where such products are separately listed.

3. Is the term ‘fish’ being used to refer to molluscs and/or crustacea in a ‘contains’ statement (even if a mollusc or crustacean ingredient is specifically declared in the ingredient list)?

The AFGC is aware of one company that always declares crustacea separately to fish but includes molluscs as part of ‘fish’.

## Cereal declarations

4. Are manufacturers regularly declaring 'gluten containing cereals' in a 'contains' statement, with the specific cereal/s declared in the ingredient list? Is this information helpful for consumers with a cereal-specific allergy, or does it create difficulties for them in making correct food choices?

The AFGC has been advised by one company that they do experience variation across labelling by their suppliers.

The AFGC recommends an industry survey to identify current label practice.

5. Are there instances where food labels omit the mandatory declaration for 'cereals containing gluten' because the cereal ingredients happen to contain no detectable gluten?

The AFGC is unaware of such a practice and notes it would be non-compliant with the Code requirements.

6. Are there instances where manufacturers are declaring the presence of 'gluten' (not 'gluten-containing cereals') along with a declaration of the specific cereal elsewhere on the label? If so, then can you comment on why this labelling practice is occurring, and whether it is/is not useful information for consumers with a cereal allergy?

The AFGC has been advised by one company that this has happened – it is primarily because gluten is the most common allergen being avoided by consumers and declaring the allergen, rather than the ingredient it comes from, makes it simplest for gluten-intolerant customers to identify.

The AFGC recommends an industry survey to identify current label practice.

7. Are you aware of food products that declare the name of a cereal on their labels but also declare that they are 'gluten free'? Would such information be unclear to consumers with a cereal-specific allergy, and if so, how?

Yes, and as not all cereals contain gluten this is not a concern. The AFGC is unaware of products with gluten-containing cereals being described as 'gluten free' and notes that such a practice would not comply with Australian law.

## Use of the term 'tree nuts' in Standard 1.2.3

8. Do food manufacturers understand which tree nuts must be declared on food labels as a means of meeting the tree nut declaration requirements in Standard 1.2.3?

The AFGC recommends an industry survey to identify current label practice, but considers it likely that there would be a degree of confusion.

9. Which tree nuts are clinically significant for individuals with a tree nut allergy? Has there been any clinical evidence since 2010 to further clarify the types of tree nuts implicated in tree nut allergies in Australia and New Zealand?

The AFGC cautions against a focus simply on Australia and New Zealand. The task of identifying tree nuts of clinical significance is one of immunological expertise on which FSANZ should consult separately.

10. Are manufacturers declaring the presence of tree nuts using the broader term 'tree nuts' in addition to the declaration of the specific tree nuts elsewhere on the label (e.g. a 'contains tree nuts/nuts' statement, with the specific nuts listed in the ingredient list)? Would such an arrangement on a food label assist or hinder tree nut-sensitive consumers in making a correct food choice?

The AFGC are aware of one company that does use 'tree nuts' as a collective description in the allergen summary but uses the specific name(s) of the nut(s) in the ingredient list.

The AFGC recommends an industry survey to identify current label practice.

### **General issues associated with terminology**

11. Is the use of unfamiliar or unrecognisable terminology for allergen declarations common practice, and/or creating difficulties with the identification of allergens in foods? We would appreciate any evidence or examples of such labelling practices.

The AFGC recommends an industry survey to identify current label practice, but considers it unlikely that industry would see any benefit in using unfamiliar or unrecognisable terminology.

12. Do 'contains' statements assist with identifying the presence of an allergen especially in the context of less familiar or less recognisable terminology being used in allergen declarations?

That is the intention of such statements, especially where the mandatory requirement to declare the 'substance' may be less informative than a declaration of the class of allergen.

For example: sodium caseinate is the ingredient but the allergen summary includes 'contains milk'.

## **CONCLUSION**

The AFGC supports a review into the issues identified by FSANZ and consideration of non-regulatory options as proposed in our submission.