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# REPORT OF THE PIRSA BUFFERS WORKING GROUP, 2015-16

MARCH 2017

**PREMIUM**  
FOOD AND WINE FROM OUR  
**CLEAN**  
ENVIRONMENT



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Information current as of 21 March 2017

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## REPORT OF THE PIRSA BUFFERS WORKING GROUP, 2015-16.

### EXECUTIVE SUMMARY

South Australia is seeking to expand the contribution of its agriculture, food and wine sectors to the State economy, consistent with announced strategic and economic priorities. To realise the full economic benefits for individual farm businesses and the State more generally, SA's farming landscapes need to be capable of accommodating a diverse and dynamic rural sector and a variety of primary production systems.

However, such a scenario introduces potential for conflict between production systems over differing practices and technologies. A case in point is the relationship between agricultural land use change, which is to be expected in a diverse and dynamic rural sector; and the use of rural chemicals, which are subject to a rigorous spray drift risk management framework. Typically, spray drift risk management becomes more complicated in the vicinity of chemical-sensitive land uses, such as horticulture and viticulture, and the risk management obligations on chemical users more challenging.

In South Australia, farmers using herbicides to control weeds in the western Barossa claim that the more challenging risk management obligations triggered by adjacent vineyard developments in recent years have inconvenienced their farm operations and dramatically affected their farm businesses. However, other evidence suggests that only a handful of SA farmers might be affected in this way, implying that most are finding ways to work within the risk management framework. Despite these differing accounts, and noting the trend towards diversification in many farming landscapes, it behoves the SA Government to consider this issue carefully. The consequences of failing to adequately manage agricultural land use change will be most evident in regions where new, chemical-sensitive land uses are seeking to expand alongside established farm businesses that routinely use rural chemicals: regions such as the Northern Adelaide Plains.

Stakeholders concerned about the relationship between agricultural land use change and spray drift risk management typically suggest that proponents of new, chemical-sensitive land uses should provide a buffer to existing land uses. They also suggest that planning authorities should notify neighbours about such proposals prior to making a decision and, if approved, impose a permanent buffer as a condition of development consent. Broadacre industry groups, including Grain Producers SA, have advocated this position for some time.

Despite its outward appeal, a Working Group established in mid-2015 found a number of conceptual and practical problems with this prescription. Instead, it is proposing a mechanism that would see appropriately qualified and experienced farm sector consultants playing a new role in the assessment of agricultural land use changes that require development consent by a planning authority. Rather than a 'one-size-fits-all' policy response that may have unforeseen consequences for proponents and existing landholders alike, the proposal seeks to enable neighbours, supported by a consultant, to negotiate equitable and reciprocal outcomes within the established spray drift risk management framework.

This report sets out the findings of the Working Group. As well as the proposal to involve farm sector professionals more widely in land use planning assessments, the Working Group has developed an Information Sheet targeting key stakeholder groups and made a series of other recommendations relating to matters such as:

- the urgency surrounding recognition of drift reduction technologies in the APVMA's spray drift policy and product label directions that enable corresponding reductions in mandatory downwind no-spray zones;
- the need to consider issues identified in this report during work currently underway to implement the *Planning Development and Infrastructure Act, 2016*; and
- the development of decision-support tools to assist chemical users in increasingly diverse farming landscapes.

## **1: INTRODUCTION**

Since mid-2015, Primary Industries and Regions SA (PIRSA) has been convening a stakeholder-based working group investigating concerns about the interaction between agricultural land use change and spray drift risk management. Central to the group's investigations has been the potential for negative effects on farm businesses as a consequence of the more challenging risk management circumstances that are triggered by establishment of new, chemical-sensitive land uses on neighbouring properties. The group has sought to identify pathways that will promote better informed decision-making, educate stakeholders and reduce the risk of disputes.

This report describes the formation, membership and activities of the Buffers Working Group; its assessment of the extent of the phenomenon and analysis of the problems created for farmers; and its proposed responses and other recommendations

Members of the Working Group represented the interests of their respective organisations during development of this package. During its finalisation those organisations also had an opportunity to review and comment on the proposals and recommendations set out in Section 4. The package will now be submitted to the Chief Executive of PIRSA for his consideration regarding implementation. Subject to any formal requests for further work, the Group is now disbanded.

## 2: BACKGROUND

### Origins, membership and objectives

In mid-2015, PIRSA began meetings with a stakeholder-based working group on the topic of buffers and interface management in primary industry settings. These meetings were part of a program of work agreed with the Department of Planning Transport and Infrastructure (DPTI) in 2015 to progress the recommendations of a joint Change@SA 90 Day project on the interaction between land use planning and primary industries.<sup>1</sup> That project, which included a statewide survey of planning system users,<sup>2</sup> revealed a number of matters requiring attention by government. One of the priority topics identified concerned Development Plan policies and associated administrative arrangements related to buffers and the management of land use interfaces.

At the time, other circumstances also informed and influenced the decision to establish a working group on this topic. They included:

- Recommendation 1.3 from the report of the South Australian Parliament's Select Committee on Sustainable Farming Practices,<sup>3</sup> which anticipated the introduction of "Procedures to manage borders between land uses...".
- National concerns about the consequences of 2008 changes to the Australian Pesticides and Veterinary Medicines Authority (APVMA) spray drift operating principles.<sup>4</sup> These changes made downwind no-spray zones mandatory when using certain herbicide sprays adjacent to chemical-sensitive land uses, such as grapevines.
- Claims by a number of western Barossa farmers and farm sector professionals about the practical and financial impact of the APVMA changes on farm businesses, especially following decisions by planning authorities to approve establishment of vineyards on adjoining land.

During its term the Working Group comprised officer-level representation from The Barossa Council, Light Regional Council, Primary Producers SA, Grain Producers SA, the Environment Protection Authority (EPA), DPTI and PIRSA. Meetings occurred at 4-6 weekly intervals, subject to the availability of members and invited guests. The activities of the Group were conducted within the resources available to members and their organisations. The Group had no special allocation of funding; nor did it have any special mandate, beyond an expectation that it would progress tasks set out in the agreed PIRSA-DPTI work program.

At the outset, members were mindful of the various primary industry settings and circumstances where buffers or other forms of interface management may be needed in rural and peri-urban parts of South Australia. These include urban and township edges, the encroachment of rural lifestyle development into farm settings, the siting of intensive livestock operations, and the relationship of primary production to remnant natural areas.

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<sup>1</sup> URPS, 2014, *Review of the South Australian Planning Policy Library and associated matters in relation to primary industries and the use/development of rural land: Scoping Study*. Report prepared for Primary Industries and Regions SA. URPS, Adelaide.

<sup>2</sup> Rural Solutions SA, 2013, *Identifying planning issues on Rural/ Primary Industry Land*. Report of a survey funded by the Local Government Association Research & Development Scheme and Primary Industries and Regions SA. Adelaide.

<sup>3</sup> House of Assembly, 2014, *Final Report of the Select Committee on Sustainable Farming Practices*. South Australian Parliament, Adelaide.

<sup>4</sup> Australian Pesticides and Veterinary Medicines Authority, 2008, *APVMA operating principles in relation to spray drift risk*. APVMA, Kingston ACT.

However, the Group decided to concentrate on the potential for disputes between primary producers; in particular, disputes arising from the interaction between an agricultural land use change by one party, and its spray drift risk management implications for their neighbours. Some members were aware of concerns over the 2008 changes to the APVMA's spray drift operating principles that introduced the concept of Mandatory Downwind No-Spray Zones (MDWNSZs). These concerns have been evident since 2010 when a National Working Party on Pesticides Applications (NWPPA) was formed in direct response<sup>5</sup> to the MDWNSZ concept and the associated failure of the APVMA policy to recognise drift reduction technologies. Other members were aware of claims by western Barossa farmers about the adverse operational and business impacts that have followed the establishment of vineyards on adjoining land.

In the circumstances, the Group agreed to focus its efforts on this particular dimension of the wider buffers and interface management topic. Noting the objectives of the PIRSA-DPTI work program, it was also agreed to concentrate on policy and related industry-level initiatives, rather than retrospective measures for particular situations, or the calls for compensation made by some parties.

### **Investigations and activities**

After an initial scene-setting phase in May and June of 2015, which comprised three workshops facilitated by consultants URPS, the Working Group assembled on the following dates for what were usually two hour meetings. Meetings including invited guest are noted in parentheses.

1 July 2015  
29 July  
27 August (Meeting with invited guests)  
23 September  
21 October  
3 December  
18 February 2016  
10 March  
14 April  
12 May (Meeting with invited guests)  
23 June  
21 July  
1 September (Meeting with invited guests)  
21 September (Meeting with invited guests at Nuriootpa)  
28 September  
27 October  
1 December  
19 December  
16 January 2017 (Meeting with invited guests)  
9 February

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<sup>5</sup> National Working Party on Pesticide Applications, no date, *Background to the Working Party*, <http://nwppa.net.au/about/background/>.

During this period the Working Group gathered information about the extent of disputes between primary producers, especially in relation to rural chemical use or the ability to use rural chemicals; met with practitioners, technical experts and other stakeholders; and considered potential policy responses and other initiatives. More particularly, the Group:

- undertook an email survey of rural Councils and sought comment from industry groups on the extent of and experiences with land use disputes between neighbouring primary producers, and reviewed EPA and Biosecurity SA data relevant to the topic;
- made enquiries to departments of Agriculture/Primary Industries in other States regarding their experience with this issue;
- met with the Office of the Small Business Commissioner regarding any potential application of its dispute mediation services in these circumstances;
- met with farm-sector consultants regarding practical issues associated with APVMA's spray drift operating principles and the implementation of buffers;
- made presentations to the Mount Lofty Ranges Planners Group and Country Planning Officers Group regarding SA's rural chemicals regime and the activities of the Working Group;
- developed explanatory graphics and spatial modelling to assist analysis of the concepts and issues surrounding this topic;
- prepared draft material for an Information Sheet aimed at reducing the likelihood of disputes between neighbours over rural chemical use and the ability to use rural chemicals;
- developed a proposal that would see appropriately qualified and experienced consultants playing a new role in the assessment of agricultural land use changes that require development approval by a planning authority;
- sought feedback on this proposal from relevant consultants;
- met with western Barossa farmers; and
- prepared verbal briefings and written information for Stephan Knoll MLA, John Darley MLC, Steven Griffith MLA, Primary Producers SA Council and the office of the Minister for Agriculture Food and Fisheries.

### **Context and circumstances**

It is important to note here that the task of the Working Group during this period was framed by a number of circumstances beyond its control or influence. Some of these had the effect of limiting the Group's scope and options for recommendations; others caused it to take longer to report than might otherwise have been the case. Amongst these circumstances, the following were especially significant.

- **The APVMA's long-running (and yet to be concluded) review of its key spray drift policy document.** Amongst the matters being considered by the review is the question of recognising drift reduction technologies. Currently the policy does not recognise the range of technologies and practices that might be used by spray operators (farmers or contractors) to reduce spray drift and, as a consequence, the size of any MDWNSZs that might be required by product labels. Recognition of drift reduction technologies in the policy has potential to significantly alleviate industry concerns but



current circumstances within the APVMA itself are reportedly preventing a decision on this matter.

- **Uncertainty about the final form and timing of changes to the SA planning system arising from the *Planning Development and Infrastructure Act, 2016*.** The new legislation makes provision for a Planning and Design Code and proposes the introduction of new development 'pathways'. It is not clear at this time whether these new pathways will alter the need for development plan consent when proposing a change of land use within Primary Production Zones (or any future equivalent zone). Neither are the implications known for public notification, which was identified by the Working Group as a key concern for stakeholders. The requirement to lodge an application (or meet standards that are 'deemed to comply') and the arrangements regarding notification of neighbours are critical points of influence in this policy arena.
- **Evolving industry and community interest in the notion of a 'right-to-farm'.** During the Working Group's tenure some stakeholders confused its focussed investigations with the much wider, more ambiguous and contested theme of the 'right to farm'. The Group had neither a mandate nor the resources for such work but, in 2016, found itself repeatedly having to answer questions (directly or via PIRSA) about its progress and explain that it was not tackling the wider agenda.

The eventual outcomes of these circumstances may significantly alter the context for those matters investigated by the Working Group, as well as the need and scope for the proposals and recommendations set out in Section 4. However, the findings set out in this report are based on the Group's best understanding of the situation as it stands.

### 3: DISCUSSION

The use of chemicals in agriculture has changed considerably in recent years, especially in broadacre production systems where most farmers have substituted herbicides for traditional cultivation practices. As well as providing more targeted weed control, this reduces the risk of wind and water erosion and promotes soil moisture retention for subsequent crops. The use of herbicides is now considered 'best practice' in cropping industries.

However, chemical use in agriculture is also subject to increasing community expectations about food safety, public health, pollution and natural resources. In that same context, markets have imposed strict standards with respect to chemical residues in food; and primary producers concerned with their own product integrity have come to expect high standards of spray drift risk management from their neighbours. These circumstances have led the APVMA to adopt a more prescriptive and enforceable approach to the registration of chemical products and to the wider spray drift management framework. In turn, this has increased farmers' perceived exposure to litigation over crop damage and prosecution for non-compliance.

These changes in the use, perception and regulation of rural chemicals have occurred largely in isolation from land use planning, which has general responsibilities for oversight and governance of land use change and development in agricultural settings. While this role does not extend to regulating chemical use as such, planning policy and procedures play a key role in mediating the relationship between land uses at the local level, where spray drift risk management is practiced. In these circumstances, planning authorities and their counterparts in the rural chemicals arena have a joint interest in ensuring that the interaction of spray drift risk management and land use change is well informed, and its outcomes aligned with wider societal goals related to procedural equity, economic opportunity and sustainability.

#### **Outlining the problem: interactions between spray drift risk management and agricultural land use change**

In South Australia rural chemical use is subject to the *Agricultural and Veterinary Products (Control of Use) Act 2002*. The Act imposes a duty of care on all chemical users to: "...take all reasonable and practicable measures to minimize actual or potential contamination and harm to humans, the environment, land, plants and animals." It also requires users to comply with mandatory product label directions.

Separate from these State arrangements, the APVMA registers chemicals for commercial use in Australia and determines their conditions of use, which are prescribed on the product label. Product label directions address a range of spray drift risk management variables and obligations including weather conditions, droplet size, equipment, record keeping and, for some newer chemicals, MDWNSZs. MDWNSZs are expressed as a minimum distance between spray operations and any chemical-sensitive site, which may be another crop, land use or activity, downwind of those operations. The need for and extent of a MDWNSZ is determined primarily by the nature of adjacent chemical-sensitive sites, the chemical in use and the wind direction. In addition to risks associated with primary industries, such as crop damage or chemical residues, MDWNSZs may also be prescribed for human health risks, environmental risks and risks to pollinators (bees).

In districts where production systems and patterns of chemical use are broadly similar and stable, the likelihood of conflict between neighbours over spray drift and off-target damage is relatively low, as borne out in official data on chemical trespass. However, in districts undergoing active land use change, especially where new chemical-sensitive crops and land uses are being introduced, spray drift risk management is a more difficult proposition. In such scenarios, the local circumstances for cost effective risk management by existing landholders who use chemicals are likely to become more complicated and the obligations on their farm operations more challenging. Depending on the chemicals in question they might also be required to observe a MDWNSZ.

While a MDWNSZ may be accepted in situations where chemical-sensitive land uses are an established feature in the landscape, there appears to be much less willingness to accept additional risk management obligations when they are triggered by new chemical-sensitive land uses. This reaction has been especially pronounced since the APVMA's 2008 decision to introduce MDWNSZs: prior to this, spray drift risk management directions had not been so prescriptive. Since 2008, landholders who use rural chemicals have occasionally found themselves having to observe MDWNSZs, where previously no distance was specified, and often without consultation before a new chemical-sensitive land use is established on neighbouring land.

This type of situation has arisen in the western Barossa district as new vineyards have been developed in traditional cropping areas. Some of the affected farmers believe this is unfair, citing lack of prior notice and potentially significant operational and business impacts. Typically, they suggest that any such development should provide a permanent buffer to existing land uses in the form of a set-back equivalent to the MDWNSZ they would otherwise have to provide. Because establishment of a vineyard involves a change of land use that requires development consent, they also suggest that this measure should be pursued through the land use planning system, as a condition of that consent. Broadacre industry groups, including Grain Producers SA, endorse this general position adding that such development should be the subject of formal Category 2 public notification status<sup>6</sup> to ensure prior notice to existing landholders before decisions are made.

Before considering possible responses to this situation, including the proposal referred to above, it is important to make some general observations regarding the extent of the phenomenon and the severity of its impacts.

In relation to its geographic extent, available evidence suggests that this phenomenon is restricted to areas undergoing active land use change, as noted above. An email survey of rural Councils conducted by the Working Group, as well as informal advice from industry groups, and data held by the EPA and Biosecurity SA, revealed little evidence of farmer complaints about this problem beyond the western Barossa district. Noting that vineyards adjoin cropping land in several other parts of the State (eg. Clare Valley, Langhorne Creek, Riverland), this suggests that broadacre farmers in those settings have found ways to work within the risk management framework. It appears that throughout most of South Australia's agricultural areas the challenge of spray drift risk management is being met by maintaining good relations with neighbours and scheduling spray operations around

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<sup>6</sup> As defined in Schedule 9 of the *Development Regulations, 2008*.

favourable wind conditions. To the extent spray drift damage occurs, it appears to be addressed by the parties concerned through insurance claims.

However, western Barossa farmers may be more negatively affected by this phenomenon than others because of the pattern of recent land use change in that district. Rapid 'leapfrog' expansion of vineyards out of the traditional Barossa Valley wine region since 2000 has created a landscape where some traditional cropping land now has vineyards on more than one side. This results in a more severe form of the problem described above by reducing the range of favourable wind directions in which it is possible to conduct spray operations that comply with regulatory requirements. In these circumstances spray drift risk management becomes more complicated and its obligations more challenging.

The impact of MDWNSZs on western Barossa cropping land where vineyards have been developed on multiple sides was simulated. While attention to scheduling would still appear to leave opportunities for spray operations that comply with regulatory requirements, the analysis illustrates the heightened level of complexity for farmers and contractors planning to spray crops under these conditions. The time-critical nature of some of these spray operations adds another layer of complexity, as do the logistical implications for spray contractors. The Group was told that some contractors now refuse to work such properties at all because of the way these conditions complicate their business at times of the season when their services are in peak demand. One farmer suggested that, as a consequence, "farms ... have been effectively shut down", and blamed planning decisions that allowed establishment on vineyards immediately adjacent to cropping land.

Whether planning decisions are solely to blame for these situations, and whether the planning system, by itself, might provide the best avenue to a solution is discussed in the next section. An important point to make before concluding this section is that, despite its name, this investigation was not about buffers as such, or spray drift or the damage it may cause. Rather, it was concerned with observed problems in the interaction between spray drift risk management framework, as described above, and agricultural land use change, as overseen and managed (in part) by the SA planning system; and with a related question about how these two regimes might be better aligned. Although the Working Group found only a handful of instances where farmers had encountered the particular problems outlined above, this is an important consideration for the future governance of South Australia's primary industries.

Government plans to expand the contribution of its agriculture, food and wine sectors to the State economy require a more diverse and dynamic rural sector and, by implication, scope for a greater variety of primary production systems. Assuming decisions about business diversification and crop selection are to be left to producers, situations like those described above are likely to become more common. Most notably and immediately, ongoing efforts to extend reclaimed wastewater north of the Gawler River for horticultural development appear to have potential to replicate circumstances in the western Barossa district. More generally, continuing social and economic restructuring in agricultural settings, and the evolving interplay between rural chemicals, consumer preferences and market access, suggest this matter will not go away of its own accord.

Viewed in this way, the matters that the Working Group investigated point to more fundamental questions about the future of rules governing primary industry investment and development in South Australia. The Select Committee on Sustainable Farming Practices raised expectations about this when it proposed better “Procedures to manage borders between land uses” in its final report.

### **Analysing the problem: options and responses**

The Working Group was satisfied that establishment of vineyards adjacent to cropping land does, indeed, inconvenience farmers and spray contractors; and that this inconvenience may have significant operational and business effects well beyond the simple loss of productive area associated with new spray drift risk management obligations. The Group heard from farmers that these obligations, triggered by the establishment of vineyards on adjoining land were: 1) disrupting timely spray operations and creating logistical problems for contractors; 2) requiring use of more expensive chemicals; and 3) compromising weed management strategies, crop hygiene, prices received and insurance status, all of which affect farm-business competitiveness. It also heard from consultants and received documentary evidence regarding the dimensions of these business consequences.

Furthermore, members of the Working Group noted farmers’ perceptions of increased exposure to litigation over crop damage and prosecution for non-compliance. They also acknowledge that there is an important ‘natural justice’ dimension here, as recognised by the Select Committee; and that these situations can be very stressful for the affected parties and have taken a significant toll on a number of families.

However, the Working Group concluded that these circumstances cannot be attributed solely to land use planning decisions. While there are aspects of planning for primary industries that need to be improved, as documented in the joint PIRSA-DPTI Change@SA 90 Day project, decisions by the APVMA seem to be at least as important in explaining current circumstances in the western Barossa. Key here is the 2008 decision to introduce mandatory down-wind no-spray zones without any allowance for drift reduction technologies. This has arguably inflamed what were already complicated and potentially litigious risk management circumstances.

The situation currently faced by western Barossa farmers is better understood as the product of a functional disconnect between two distinct arenas of public policy that have traditionally operated quite separately and are, only now, starting to confront the need for better cooperation. The lesson of this experience is that greater resources and effort need to be invested in managing not just the physical interface between land uses, but also the conceptual interface between primary industries, with its various and continually evolving management practices, such as chemical spraying for weed control, and land use planning.

In this regard, the Working Group also found problems with the proposal by various stakeholders to resolve to the current situation by requiring vineyard developments to accommodate a buffer equivalent to a MDWNSZ as a condition of development consent. Despite its outward appeal in ‘natural justice’ terms, such buffers could not be applied retrospectively once a planning decision has been made and, hence, would do nothing to address situations where land use change has already occurred. Furthermore, this course of action invites confusion over the role of local government and planning authorities, which

have no jurisdiction in relation to rural chemical use, and risks compromising the integrity of the wider spray drift risk management framework. It also poses a series of technical questions about:

- how the policy basis for such a buffer would be determined, noting the wide range of variables that ordinarily determine MDWNSZs,
- how the resulting policy would be applied in practice, noting the limited technical competence of most local government planning staff in these matters, and
- how permanent buffers would be reconciled with broadacre farmers' periodic changes in crops and weed management strategies.

More generally, there are also important conceptual differences between a MDWNSZ (an essentially temporary control on chemical application) and a buffer applied as a condition of planning consent (a more fundamental and permanent control on land development), which mean the latter would have a disproportionate impact on any new land use to which it was applied.<sup>7</sup> A buffer applied as a condition of planning consent would have a much more extensive and permanent impact than a MDWNSZ. Unless alternative economic uses for the area of the buffer can be found, this could result in substantial areas of land being taken out of production and, very possibly, left idle, with attendant land management issues. It would also be unresponsive to technology and policy changes, meaning that its effects would be 'locked-in'; and it would risk introducing anomalies within the spray drift risk management framework, whereby some chemical-sensitive crops and land uses (eg. vineyards and field horticulture) would be treated differently to others (eg. legume crops).

The Group heard a proposal from one stakeholder for a standard buffer of 80-100 metres to be provided by new land uses. However, this suffers many of the same issues listed above and, in its well-intentioned attempt to simplify matters is open to criticism as a 'one-size-fits-all' response that, in turn, may be susceptible to sectional lobbying or legal challenge at the policy level, if not at the development application stage. Mindful of the State Government's strategic priorities in the primary industries and agri-food sector, policy approaches that would penalise new investment and development in this way are also problematic at a strategic level.

In summary, there are a series of issues—conceptual, jurisdictional, technical, practical, legal and strategic—with the suggestion that buffers be imposed by planning authorities as a condition of development consent in these circumstances. Given these issues, the Working Group has developed an alternative approach for better aligning the interaction between agricultural land use change and spray drift risk management that addresses the key concerns of stakeholders but avoids the issues listed above. In short, that approach proposes new planning procedural arrangements for involving suitably qualified and experienced farm sector consultants in the assessment of chemical-sensitive land use changes (eg. vineyards or other horticulture development) that require development consent by a planning authority. By requiring that proponents include a report from such a consultant in their development application, this proposal seeks to bring appropriate technical expertise to

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<sup>7</sup> Note that this is not to suggest that buffers have no place in land use policy for farming landscapes. Rather, it is simply to make the point that forms of development that are envisaged in Primary Production Zones would not normally be the subject of a policy with such prejudicial intent.

bear on complex circumstances that are not amenable to simple codification, and on decision-making practices that currently lack capacity for informed judgements.

This approach satisfies a number of the original core concerns amongst stakeholders in the way it would ensure:

- existing landholders are made aware of proposed land use change on neighbouring land before it occurs;
- they would have an opportunity to provide information about how their circumstances will be affected by the proposals and be heard in the assessment process;
- impacts on existing neighbours resulting from MDWNSZ obligations triggered by neighbouring land use proposals would be directly addressed in the course of the planning decision; and
- the onus would be on proponents of new chemical-sensitive land uses to conduct and pay for due diligence investigations about potential impacts, and take responsibility for that process.

Seen in this way, the Working Group's proposal is similar to that of the stakeholders' suggestions outlined above, in that it will lead to settled arrangements between neighbours for managing the risk of spray drift and satisfying regulatory requirements. However, it is different in that these arrangements will be arrived at through facilitation by a qualified and experienced farm-sector professional, rather than resorting to a 'one-size-fits-all' planning policy prescription. For the same reason, it also has advantages over conventional planning measures within the SA planning system, such as Category 2 notification status, which assumes a capacity on the part of planning officers to interpret the technical dimensions of applications for primary production development. In the event that the APVMA recognises drift reduction technologies, this approach would also be able to accommodate those changes immediately and without the need to update planning policy or revisit earlier decisions.

The Working Group has considered the suggestions it heard from stakeholders about imposing permanent buffers as a condition of development consent, as well as some hybrid variations on that theme. However, all things considered, its preferred proposal is as outlined here. Along with the proposed Information Sheet to raise general awareness about these matters, plus the other recommendations listed below, the Working Group believes this mechanism provides the basis for a response that is both equitable and efficient in its treatment of all parties, and consistent with the State Government's strategic priorities for the sector.

## **Conclusion**

Western Barossa farmers have legitimate concerns about the interaction between agricultural land use changes on their property boundaries and their spray drift risk management obligations. While they appear to be in a minority amongst SA primary producers, at least in terms of the impact of these circumstances on their farm operations and businesses, the implications are sufficiently relevant to evolving parts of SA's farm sector that a number of targeted initiatives are appropriate. These are set out in the following section.

Other concerns raised by these farmers were outside the scope of the Working Group's investigations. Nevertheless, noting that the properties in question lie within the Barossa Character Preservation District, which is premised on the continuation and, presumably, the economic viability of agricultural landscapes, the Working Group believes there are grounds to make special arrangements to work through the various concerns expressed by these farmers..



#### 4: PROPOSALS AND RECOMMENDATIONS

The following are the proposed outputs and recommendations of the Working Group. The other recommendations for action are described here in summary form only. In the event a decision is made to progress these matters, more detailed briefings and advice can be provided.

1. The Working Group proposes **new planning procedural arrangements for involving appropriately qualified and experienced farm sector consultants in the assessment of proposals for chemical-sensitive land use change** (eg. vineyards or other horticulture development) that require development consent by a planning authority. By requiring that proponents include a report from such a consultant in their development application, this proposal seeks to bring technical expertise to bear on complex circumstances that are not amenable to simple codification, and on decision-making practices that currently lack capacity for informed judgements. The proposal has also been subject to preliminary testing with local and interstate consultants. This proposal should be an integral part of the program of work anticipated in Recommendation 4 below.
2. The Working Group also proposes **preparation and distribution of an Information Sheet for key stakeholder groups** that provides information aimed at reducing the likelihood of disputes between neighbours over rural chemical use and the ability to use rural chemicals. The information in this document aims: to 1) reinforce general advice that is already given to all chemical users; 2) alert proponents of chemical-sensitive land use change (eg. vineyards or other horticulture development) to the operational and business impacts their proposal may have on neighbouring landholders; and 3) assist planning decision-makers understand and deal with the technical complexity in this type of land use change. The information sheet seeks to build on the observation that throughout most of rural SA, neighbouring primary producers appear able to negotiate the obligations of rural chemical use, including MDWNSZs, amongst themselves.
3. Noting the central role of the APVMA spray drift risk management framework in the circumstances that gave rise to this working group, it is recommended that **the Minister for Agriculture Food and Fisheries consider correspondence or other communications with his State and Commonwealth counterparts** urging recognition of drift reduction technologies as a matter of priority. Such recognition would give immediate assistance to affected farmers by enabling them to reduce the size of MDWNSZs.
4. Noting that the *Planning Development and Infrastructure Act, 2016* provides an opportunity to make important modifications to the policy treatment of land use change in agricultural settings, it is recommended that **DPTI be requested to give special priority to the matters identified in this report**, especially Recommendation 1 above. With recent drivers for planning reform being overwhelmingly metropolitan in nature, it will be important for the authors of the new Planning and Design Code to give careful consideration to the formulation of the development pathways for rural and agricultural development, including 'deemed to comply' standards and public notification

arrangements for Primary Production Zones. Besides the Code, effective implementation of measures proposed in this report may also require attention in the development of State Planning Policies and Practices Guides.

5. To provide on-ground assistance to farmers and contractors in districts where spray drift risk management has become, or is likely to become more complicated, it is recommended that **consideration be given to further development of the spatial modeling undertaken by the Working Group and examination of its potential as an on-line tool to assist rural chemical users.** Potential partners might include the Bureau of Meteorology, the Country Fire Service, the NFF Digital Agriculture program or private sector services.
  
6. While the Group found relatively little evidence of active disputes amongst neighbouring primary producers in its investigations, it is recommended that **consideration be given to the development of an identifiable and specialist capacity in dispute mediation related to agricultural interface issues.** This need not be a major undertaking as it would only deal with matters that are not captured by existing arrangements, such as the compulsory conference provisions of the Environment Resources and Development Court and the farming industry dispute resolution code of the Office of the Small Business Commissioner. Likewise, it need not be a stand-alone service but could be developed out of or allied to existing programs and providers, such as SA Community Legal Centres, Mediation SA or rural counselling services. Such an initiative would be justifiable in terms of farmer health and would align with at least two, and possibly three of the Government's seven strategic priorities.

