

06 March 2026

Hon Julie Collins MP  
Minister for Agriculture, Fisheries and Forestry  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

cc. Chris Leptos AO  
Independent Reviewer  
Horticulture Code of Conduct Review

Dear Minister Collins

## **Submission to Horticulture Code of Conduct Review**

### **Introduction**

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End Food Waste Australia (EFWA) welcomes the opportunity to contribute to the independent review of the Horticulture Code of Conduct (the Code). As the national initiative leading Australia's efforts to reduce food waste across the supply chain, our work brings together growers, wholesalers, retailers, food rescue organisations, and government to identify practical, evidence-based solutions that prevent avoidable food loss. Australia currently loses an estimated \$36.6 billion in food waste every year<sup>1</sup>, with horticulture representing the largest single source, accounting for around 50% of total food waste and an estimated \$1.72 billion in fruit and vegetable losses annually<sup>2</sup>.

Through research programs and plans such as [Understanding How Trading Practices Affect Food Loss and Waste in Australia](#), the [Horticulture Sector Action Plan for Food Waste Reduction 2024](#), and industry partnerships across fresh produce sectors, EFWA has developed deep insights into how commercial practices, communication gaps, and market dynamics contribute to avoidable waste. These insights position us to provide informed, system level recommendations on how the Code can better support transparency, timely decision-making, and fair trading relationships.

We are contributing to this review because strengthening the Code presents a critical opportunity to address food waste. Clearer rules for ownership, rejection processes, data sharing, and good faith dealing will not only support growers and traders but also help ensure that edible produce stays within the human food supply chain. Ensuring the Code reflects modern trading practices and promotes efficient, fair, and waste minimising behaviour is essential for the horticulture sector's long-term sustainability, profitability, and contribution to national food security.

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<sup>1</sup> FIAL (2021) National Food Waste Strategy Feasibility Study <https://www.fial.com.au/sharing-knowledge/food-waste>

<sup>2</sup> Akbar, D., Babacan, H., Marty, M., Rahman, A., Chhetri, P., Lau, C., Li, Y., & De Valck, J. (2024). Banana Industry Sector Action Plan for Food Waste Reduction 2024: Final technical report. End Food Waste Australia, pp. 75.

## Summary of Recommendations

1. The Code should explicitly incorporate a principle requiring growers and traders to act in ways that minimise avoidable food waste, using the food waste hierarchy (prevention → redistribution → processing → disposal). Incentives may be required to support growers to achieve this.
2. The Code should provide enforceable rules and clarity across key areas to minimise food wastage across the supply chain, including:
  - a process for handling rejected or below specification produce.
  - consistent, timely data flow back to growers.
  - clear produce ownership and liability points across the supply chain.
3. The Code should simplify and make explicit the mechanisms available to growers for dispute resolution and clearly specify the types of mediation services that are appropriate to contact for support through the dispute process if required. Consideration should be made to training programs that assist in stakeholders understanding the benefits of the Code and how to use it.
4. The Code should explicitly incorporate a principle requiring growers and traders to act in ways that minimise avoidable food waste, using the food waste hierarchy (prevention → redistribution → processing → disposal).
5. The Code should be written in plain language to improve accessibility for growers.
6. The Code should link to and reference existing compliance requirements, not duplicate them.
7. To increase the effectiveness of the Code, enforceable measures should be built into the framework supported by clear process maps that ensure key mechanisms are easy to follow and adopt.
8. The Code should:
  - define clear, objective transfer of ownership points (e.g., acceptance scan, temperature check).
  - require time-stamped evidence for rejections (photo + reason + digital log).
  - link responsibility to objective, transparent events rather than assumptions or informal practices.
9. The Code should give consideration to structural market conditions in developing dispute resolution mechanisms, with their effectiveness assessed through confidential grower surveys.
10. The effectiveness of the Code should be measured and assessed via an annual, independent and confidential grower survey.
11. That the Code be updated to reflect modern market conditions and pricing structures while ensuring that growers best interests sit at the heart of this review. Consideration should be made to complementary mechanisms/measures that target whole of system issues to achieve the goals of the Code.

## Responses to consultation questions

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### 1. Is the Horticulture Code still required?

There remains a clear and ongoing need for the Horticulture Code of Conduct. It is the only mandatory governance framework that regulates transactions between growers and wholesale traders. Since the last review in 2015 market conditions have become more complex with tighter margins, higher operating costs, and new trading channels (including direct to retail and meal kit companies). These pressures heighten the risk of inefficiencies, and inequitable trading practices which result in food waste and serious costs across the food supply chain if a mandatory framework is not in place.

However, while the Code is necessary and currently provides foundational expectations (written agreements, record keeping, good faith dealing), it does not yet comprehensively address transparency, data flow, or timely communication in relation to forecasting changes and ordering practices. These are key factors that influence grower outcomes and food waste.

The issue of food waste is a crucial area which requires a more significant presence within the Code. Australia is losing an estimated \$36.6 billion<sup>3</sup> every year to food waste, around 1.4 per cent of GDP, effectively erasing more than half the value generated by agriculture and undermining national food security.

Horticulture is currently the largest single contributor to food waste across the supply chain, accounting for approximately 50% with an estimated \$1.72 billion lost in fruit and vegetables annually and 18–22% of horticultural production lost pre-retail<sup>4</sup>. This data was published by FIAL in 2021 and based on 2019 figures, the number is expected to be far higher now.

The Code should explicitly incorporate a principle requiring growers and traders to act in ways that minimise avoidable food waste, using the food waste hierarchy (prevention → redistribution → processing → disposal).

Wholesale markets play a unique and critical role in minimising food waste due to their real time visibility of quality, volume, demand, and alternative sales channels. Strengthening the Code should aim to support, not constrain, this pivotal function.

#### **Recommendation:**

The Code should explicitly incorporate a principle requiring growers and traders to act in ways that minimise avoidable food waste, using the food waste hierarchy (prevention → redistribution → processing → disposal). Incentives may be required to support growers to achieve this.

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<sup>3</sup> FIAL (2021) National Food Waste Strategy Feasibility Study <https://www.fial.com.au/sharing-knowledge/food-waste>

<sup>4</sup> Akbar, D., Babacan, H., Marty, M., Rahman, A., Chhetri, P., Lau, C., Li, Y., & De Valck, J. (2024). Banana Industry Sector Action Plan for Food Waste Reduction 2024: Final technical report. End Food Waste Australia, pp. 75.

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## 2. Does the Code provide clarity, transparency, and fair dispute resolution?

### Clarity and transparency

The Code establishes some transparency requirements but there is a need for further clarity in key areas, including:

- a process for handling rejected or below specification produce.
- consistent, timely data flow back to growers.
- produce ownership and liability points across the supply chain.

Uncertainty in these areas can lead to over-grading on farm, non-harvest decisions, mismatches in supply and, as a consequence, increased waste of edible produce and reduced income for growers. Ambiguity in ownership, rejection handling, and/or communication can create delays that increase the risk of avoidable food waste. Therefore, rapid triage of rejected or downgraded produce is vital to ensure edible food is diverted to people – via alternative buyers, processors, or food rescue – rather than to landfill or other low-value destinations.

It is important for wholesalers to have clear, enforceable ownership and delivery rules to be able to:

- divert downgraded produce quickly and appropriately so that food lost to waste is minimised.
- act quickly on behalf of growers without risk of breaching contractual obligations.
- communicate grade, defect details, and available options in real time.

The Code should encourage:

- timely, real-time information (e.g., digital rejection notifications with photos).
- clear communication protocols.
- consistent expectations for growers and traders, especially during gluts or rapid volume changes.

Existing digital tools already demonstrate what best practice can look like. Apps used by major supermarkets, such as the Greenlight Quality Control (GLQC) platform developed by Muddy Boots Software, reportedly show that rapid, evidence-based rejection logging and quality assessment are feasible and effective, although the uptake of these tools is unclear. Incorporating similar expectations into the Code would improve transparency, support faster decision making, and help keep edible produce in the human food supply chain due to improved communication along the food supply chain, extending to food relief partners.

### **Recommendation:**

To minimise food wastage across the supply chain, the Code should provide enforceable rules and clarity across key areas, including:

- a process for handling rejected or below specification produce.
- consistent, timely data flow back to growers.
- clear produce ownership and liability points across the supply chain.

## Dispute resolution

While dispute resolution is codified, the number of disputes that have occurred since the Code's inception is minimal, indicating this function is currently underutilised. This suggests that:

- growers may be unaware of their rights.
- with 11,881 (68%) of growers running non-employing businesses, time and resources are limited when it comes to dispute resolution processes.
- there may be concerns about damaging commercial relationships.
- processes may currently feel inaccessible or complex.
- growers may feel unprotected and their current commercial arrangements jeopardised if they wish to act.

Dispute resolution cannot be considered effective if it is seldom used. Therefore, it is essential to ensure that the process can be understood and equitably accessed by all growers, regardless of their business size or situation.

When processes are unclear or difficult to use, growers and wholesalers may hesitate to report issues or may avoid necessary documentation. Anything that fuels disputes or discourages timely reporting increases the likelihood that edible product flows into lower value channels or becomes waste instead of being redistributed.

### **Recommendation:**

The Code should simplify and make explicit the mechanisms available to growers for dispute resolution and clearly specify the types of mediation services that are appropriate to contact for support through the dispute process if required. Consideration should be made to training programs that assist in stakeholders understanding the benefits of the Code and how to use it.

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## 3. Additional objectives that should guide the Code

### **Introduce a Food Waste Minimisation Principle**

The Code should explicitly incorporate a principle requiring growers and traders to act in ways that minimise avoidable food waste, using the food waste hierarchy (prevention → redistribution → processing → disposal).

Wholesalers have a unique understanding of the full range of options available to prevent fresh produce from going to landfill. Their real time visibility of quality, volumes, demand, and alternative sales channels enables them to support decisions about quantities produced, harvest timing, preferred sales pathways, and opportunities to flex specifications or identify alternative buyers for downgraded produce.

When parties choose between options – such as rejection, rework, donations, processing, or landfill – it is important to prioritise prevention first, then redistribution, consistent with

established Australian and international policy frameworks. Embedding this expectation within the Code would recognise wholesalers' unique role in keeping edible food within the supply chain and reducing on farm and postharvest waste.

The principle should apply to both:

- *upstream decisions*, including planning, volumes, dispatch timing, and communication; and
- *downstream decisions*, such as rejection management, use of alternative markets, and donations.

### **Ensure accessibility for small and CALD growers**

Almost 12,000 horticulture businesses have no employees and many growers lack time, administrative capacity, or first language proficiency. It is imperative that the Code is simple to understand, accompanied by plain language guidance, and supported by industry bodies who growers' trust and who can help with implementation.

### **Avoid regulatory duplication**

New obligations should not increase grower burden or duplicate existing compliance requirements. The aim should be to streamline, not complicate, trading relationships.

#### **Recommendations:**

1. The Code should explicitly incorporate a principle requiring growers and traders to act in ways that minimise avoidable food waste, using the food waste hierarchy (prevention → redistribution → processing → disposal).
2. The Code should be written in plain language to improve accessibility for growers.
3. The Code should link to and reference existing compliance requirements, not duplicate them.

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## **4. Is the Code working as intended?**

The intent of the Code – to improve clarity, transparency, fairness and dispute resolution – is sound. The Code works in principle but requires targeted strengthening to deliver on its intended outcomes. Based on the experience of the sector:

- good faith obligations lack definition and are difficult to enforce.
- dispute mechanisms are not practically accessible.

#### **Recommendation:**

To increase the effectiveness of the Code, enforceable measures should be built into the framework supported by clear process maps that ensure key mechanisms are easy to follow and adopt.

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## 5. Clarity of Ownership – Is clarity of ownership a significant issue?

Yes, clarity of ownership is a significant issue. The current wording of the Code fails to clearly define when ownership transfers from the grower to the agent or merchant. This ambiguity creates operational and legal uncertainty.

Because the Code is unclear on when ownership must transfer, a delivery could theoretically sit for an extended period, spoil, and still be rejected later. This loophole exists because the Code only specifies that rejection must be communicated within 24 hours *after* rejection – *not* when acceptance must occur ([Understanding How Trading Practices Affect Food Loss and Waste in Australia](#)).

Growers often face uncertainty about when legal ownership transfers, who bears the risk for delays, transport issues, or spoilage, and when and why produce is rejected. These uncertainties contribute to difficulty challenging decisions, growers absorbing disproportionate risk, and on farm waste due to precautionary over grading.

### **Recommendation:**

The Code should:

- define clear, objective transfer of ownership points (e.g., acceptance scan, temperature check).
- require time-stamped evidence for rejections (photo + reason + digital log).
- link responsibility to objective, transparent events rather than assumptions or informal practices.

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## 6. Fear of Retribution – Is good faith dealing effective?

Not sufficiently, while ‘good faith’ is defined in case law it is likely that every day growers may not have a specialisation in this. Therefore, it becomes a vague term that is difficult to reliably apply or enforce, leaving growers unsure of their rights and reluctant to question pricing, specifications, or orders. Recent research ([Understanding How Trading Practices Affect Food Loss and Waste in Australia](#)) has found that that despite good faith obligations in both the Hort Code and the Food and Grocery Code, their effectiveness is likely undermined by structural market conditions.

### **Should the Code include explicit protections against retribution?**

Yes, it’s very important to codify anti-reprisal protections to support growers’ confidence in raising issues; reduce reliance on personal relationships; improve fairness; and reduce food waste arising from conservative decision making.

**Should a confidential mechanism (e.g., annual survey) be established?**

Yes, a confidential, systematic feedback mechanism would:

- reveal issues obscured by fear of speaking out.
- help track trends.
- allow growers and traders to raise concerns without risk.

This should build upon, rather than duplicate, existing government surveys.

**Recommendation:**

That the Code give consideration to structural market conditions in developing dispute resolution mechanisms, with their effectiveness assessed through confidential grower surveys.

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**7. Anonymous Feedback Mechanisms – Do you support the introduction of an annual grower and trader survey for the Horticulture Code?**

Yes – if it is anonymous, low burden, coordinated with existing surveys, and reported back transparently and meaningfully. There are also alternative or complementary options such as:

- independent mediators with proactive outreach (similar to recent improvements in the Food & Grocery Code).
- anonymous tiplines or pulse checks via industry bodies.
- extension activities and plain language guidance through trusted grower networks.

**Recommendation:**

That the effectiveness of the Code be measured and assessed via an annual, independent and confidential grower survey.

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**8. Scope of the Code – Have trading environment changes impacted effectiveness?**

Yes, significantly. Key changes affecting Code performance include:

- growth of direct to consumer and meal kit channels.
- faster, higher volume supply dynamics.
- increased frequency of gluts or flush periods.
- more complex price setting and demand patterns.

The Code focuses on one-to-one contracts, but many issues affecting food waste and price volatility arise from system level dynamics such as oversupply and poor visibility of aggregate volumes.

It is therefore important that any changes to pricing formulas should be made in consultation with growers and must preserve the flexibility needed during fast-moving market conditions. Overly rigid formulas can unintentionally increase waste by limiting rapid markdowns or alternative sales channels. They can also be simply too burdensome for some growers to engage with, leaving them opting for low-value outcomes (i.e. landfill) instead of the administrative burden. In wholesale markets, prescribed pricing methods may also discourage participation or complicate negotiations.

While a standardised formula may not be necessary, merchants must be required to act in growers' best interests and ensure payments do not fall below the cost of production. If formula-based requirements are removed, they should be replaced with clear obligations and safeguards to protect growers from being paid below their production costs.

**Recommendation:**

That the Code be updated to reflect modern market conditions and pricing structures while ensuring that growers best interests sit at the heart of this review. Consideration should be made to complementary mechanisms/measures that target whole of system issues to achieve the goals of the Code.

Thank you for the opportunity to contribute to this review. We look forward to continuing our collaboration with the Department of Agriculture, Fisheries and Forestry through projects such as the *Reducing on-farm food waste and unlocking its value for grower profitability and sustainability* to support the Australian Government in delivering a more resilient, productive, and food-secure future for all Australians.

Should you have any questions or require further information, you are welcome to contact me via [wendy@endfoodwaste.com.au](mailto:wendy@endfoodwaste.com.au).

Yours sincerely,



Wendy Hughes  
Director Policy, Communications & Strategic Engagement