

NOTIFICATION OF COLLECTIVE BARGAINING

Tasmanian Farmers & Graziers Association



ACN 009 477 810

ABN 51 009 477 810

P: (03) 6332 1800

W: www.tfga.com.au

A: PO Box 193

56a Charles Street

Launceston TAS 7250

Section 1 – Information

Notifying Party

1. Provide details of the notifying party, including:

1.1 name, address (registered office), telephone number, and CAN

Tasmanian Farmers & Graziers Association (TFGA)
56a Charles Street, Launceston TAS 7250
Telephone: (03) 6332 1800
ACN: 009 477 810

1.2 contact person's name, telephone number, and email address

Peter Skillern CEO
Telephone: (03) 6332 1800
Email: reception@tfga.com.au

1.3 a description of business activities

The TFGA is the peak body representing the interests of Tasmanian farmers at a state and national level. The activities covered by this notification involve the negotiation of prices for pyrethrum to be acquired from growers that are represented by the TFGA by Botanical Resources Australia (BRA).

1.4 email address for service of documents in Australia.

reception@tfga.com.au

2. Details of the notified conduct

The notified conduct is for collective bargaining without a collective boycott.

3. Provide details of the notified conduct including:

3.1 a description of the notified conduct

The TFGA Pyrethrum Committee intends to negotiate with BRA on behalf of Tasmanian Pyrethrum Growers in relation to the Pyrethrum Growing Agreement, including prices, as entered into between BRA and each of the pyrethrum growers. The 'growers' include TFGA members and non-members as well as current and future growers. At this stage, price is the major component of the Agreement that the TFGA Pyrethrum Committee wish to collectively bargain on however in the future this may also need to include terms and conditions which will allow the Agreement to be developed over time.

The TFGA only intends to facilitate negotiations and provide administrative assistance and secretarial support to the TFGA Pyrethrum Committee. All negotiations will be made between BRA and the committee.

The five TFGA Pyrethrum Committee members (names and contact details supplied in Section 15) are all primary producers who grow pyrethrum.

It is unlikely that other processors will be entering Tasmania in the near future therefore the Committee only intends to negotiate with BRA at this stage.

3.2 any relevant documents detailing the terms of the notified conduct

No relevant documents.

3.3 the rationale for the notified conduct

The TFGA Pyrethrum Committee, representing pyrethrum growers in Tasmania believe that price negotiations are necessary for growers to continue to sustainably grow pyrethrum. There has been no increase in pyrethrum price since at least 2014. With competition increasing for growing areas amongst different commodities in Tasmania, the importance of ensuring growers choose to grow pyrethrum is paramount. Increased prices in the livestock sector have also increased this competition. Generally, pyrethrum production makes up a small proportion of each grower's individual business. In most cases, they also produce other commodities such as cereals, vegetables and livestock so when prices increase for these other commodities they may choose to increase production and focus on those areas.

The TFGA Pyrethrum Committee has developed a positive and productive relationship with Botanical Resources Australia (BRA) and the request for negotiations are based on the increased costs of production to growers across the state.

3.4 any time period relevant to the notified conduct.

The TFGA Pyrethrum Committee and BRA have engaged in preliminary discussions and data has been collated to determine the true cost of production of pyrethrum in Tasmania. This data will form the basis for price negotiations.

Notification is being made to the ACCC to permit negotiations with BRA to begin immediately and it is expected that these negotiations will be completed by the end of February 2021. Increases in production costs and competition with different commodities are likely to continue each year, therefore the TFGA Pyrethrum Committee are seeking to have the notification in place for the maximum period of 10 years to ensure that growing pyrethrum in Tasmania remains viable in the future. However if this time period is deemed unnecessary, the TFGA Pyrethrum Committee would be satisfied with the normal 3 year period.

4. Provide documents submitted to the notifying party's board or prepared by or for the notifying party's senior management for purposes of assessing or making a decision in relation to the notified conduct and any minutes or record of the decision made.

Please see attached letter of authorisation written by Peter Skillern, TFGA CEO.

5. Provide the names and/or a description of the persons or classes of persons who may be directly impacted by the notified conduct (including targets in collective bargaining or boycott conduct) and detail how or why they might be impacted.

As BRA are the only processor of pyrethrum in Australia it is not expected that any other persons will be directly impacted by the notified conduct. While there are other processors internationally (primarily Africa) it is not feasible for growers to sell their pyrethrum to these processors.

Market Information

6. Describe the products and/or services, and the geographic areas, supplied by the notifying parties. Identify all products and services in which two or more parties to the notified conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).

Pyrethrum is a botanical insecticide produced in the flowers of a plant from the chrysanthemum family. The perennial crop is grown across Northern Tasmania which once harvested is processed using a highly complex method into a refined insecticide concentrate. BRA is the only pyrethrum processor in Tasmania and all pyrethrum in Tasmania is grown either by BRA or by individual growers under contract to supply BRA. BRA grow approximately 30% of the pyrethrum in Tasmania.

The TFGA represent 60-70% of the pyrethrum growers in Tasmania however the committee wish to negotiate with BRA in relation to the price that will be paid to all growers regardless of whether they are TFGA members or not.

The TFGA will maintain its role on behalf of the TFGA Pyrethrum Committee to:

- Obtain and disseminate relevant information to the committee to assist with price and contract negotiations.
- Provide administrative assistance to the committee with secretariat support covering such matters as newsletters, meeting arrangements, minute taking, letter writing, press releases and general lobbying on any issues affecting members.
- Join the committee during meetings with the processors to discuss price and contract arrangements.

7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.

The industry immediately affected by the notified conduct is the Tasmanian pyrethrum industry and more broadly, the Tasmanian agricultural industry. As noted above, all pyrethrum grown in Tasmania by individual growers is purchased and processed by BRA by way of a contract.

There is a global market for processed pyrethrin concentrate and pyrethrum-based insecticides which BRA participate in however growers do not export unprocessed pyrethrum interstate or overseas on an individual basis.

8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.

The TFGA do not have access to figures relating to all pyrethrum growers in Tasmania however based on previous TFGA memberships and non-TFGA grower meetings it is believed that there are around 100 growers in the state. It is also believed that the majority of growers all grow similar areas of pyrethrum, between 10 to 20 hectares with the exception of a small number who grow up to 100 hectares. This figure can fluctuate depending on crop rotations and climatic factors.

The TFGA Pyrethrum Committee aim to undertake price negotiations that will benefit all Tasmanian pyrethrum growers, regardless of whether they are TFGA members or not. It is anticipated that following negotiations, the price per kilogram of pyrethrum will be increased for all pyrethrum growers.

Pyrethrum grown in Tasmania makes up 60-70% of the pyrethrin concentrate sold on the global market which is processed by BRA.

9. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously.

BRA is currently the only processor (and therefore purchaser) of commercially grown pyrethrum in Tasmania. This greatly reduces the bargaining power of the growers and puts them at a disadvantage. BRA is the world's largest supplier of pyrethrum-based insecticides and it is unlikely that new competitors will enter the market in Tasmania in the near future.

The TFGA Pyrethrum Committee believe that BRA would not be disadvantaged by the proposed conduct as it allows them to maintain a productive relationship with growers and continue to develop a sustainable pyrethrum industry in Tasmania. As pyrethrum is an 18-month crop that it is generally grown in the North West, which is a prime potato growing area (a highly profitable crop) it is important that growers who may have competing interests continue to be supported and see the benefits in growing pyrethrum.

Public benefit

10. Describe the benefits to the public that are likely to result from the notified conduct. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.

There are a number of benefits likely to result from the notified conduct with the main benefit being the increase in bargaining power for pyrethrum growers in Tasmania. All growers are benefited by being able to negotiate as a group in an efficient and effective manner and it takes away the disadvantage that individual growers are placed at due to limited bargaining power and resources.

There are no other processors of pyrethrum in Tasmania and as a result the only option that Tasmanian growers have is to negotiate contractual problems rather than sell their produce to a competitor. Because of this, it is extremely important that a good relationship is maintained between the growers and BRA to ensure the longevity of pyrethrum production and processing in Tasmania.

There will be significant time and cost savings for both parties by negotiating as a group and removing the need to negotiate on an individual grower basis. This will mean fewer meetings and discussions, reduced administration requirements and better communication with growers.

The TFGA believes that the notified conduct will give Tasmanian growers increased confidence to enter into pyrethrum growing contracts in the future knowing that they are well represented and have the ability to negotiate with the sole processor in the state. Generally with other agricultural commodities there are multiple buyers/processors which growers are able to engage with as a way of managing their risk however with pyrethrum this is not the case.

There have been preliminary discussions between the TFGA Pyrethrum Committee and BRA with both parties indicating that they are willing to enter into price negotiations.

Public detriment (including likely competitive effects)

11. Describe any detriments to the public that are likely to result from the notified conduct, including those likely to result from any lessening of competition. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the detriments.

It is the view of the TFGA and the TFGA Pyrethrum Committee that there are no public detriments that are likely to result from the notified conduct. As there is currently no competition for the purchase of pyrethrum in Tasmania and it is unlikely to occur in the near future, the TFGA does not anticipate that the notified conduct will result in the lessening of competition.

Participation in the notified conduct is voluntary and each of the parties involved in negotiations are able to choose whether they enter into the notified conduct. As noted above, both parties have indicated that they are willing to participate.

It is worth noting that collective bargaining under TFGA authorisation for other agricultural commodities including potatoes, peas and beans has been operating since November 2004 and there has been no anti-competitive detriment identified in that time.

Contract details or relevant market participants

12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties, such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.

Tony Brookes
Managing Director
Botanical Resources Australia Pty Ltd
44-16 Industrial Drive
Ulverstone, TAS 7315
Head Office Telephone: [REDACTED]
Email: [REDACTED]

The TFGA are not aware of any other pyrethrum processors within Australia.

Any other information

13. Provide any other information you consider relevant to the ACCC's assessment of the notified conduct.

Nil.

Section 2 – Additional information for collective bargaining (with or without a collective boycott) conduct only

14. Confirm that the notifying party is not a trade union, an officer of a trade union or acting at the direction of a trade union.

The TFGA confirms that it is not a trade union or acting under the direction or influence of one.

15. Provide details (name, phone number, email address) of the persons who are current members of the group (contracting parties) on whose behalf the notification is lodged. If relevant, identify the classes of persons who may become contracting parties in the future and on whose behalf the notification is lodged.

The notification is lodged on behalf of the TFGA Pyrethrum Committee Members who represent pyrethrum growers (TFGA members and non-members) in Tasmania. Also included are future pyrethrum growers.

TFGA Pyrethrum Committee:

Justin Shephard – Committee Chair and pyrethrum grower

[Redacted contact information for Justin Shephard]

Richard Smith – Committee Vice-Chair and pyrethrum grower

[Redacted contact information for Richard Smith]

Nigel Wade – Committee Member and pyrethrum grower

[Redacted contact information for Nigel Wade]

Stuart Applebee – Committee Member and pyrethrum grower

[Redacted contact information for Stuart Applebee]

Hamish Yaxley – Committee Member and pyrethrum grower

[Redacted contact information for Hamish Yaxley]

16. Confirmation

Each contracting party reasonably expects to enter into one or more contracts with BRA in relation to the supply of pyrethrum.

Pyrethrum is a primary product, as stated in the Competition and Consumer Regulations 2010 Reg 71D *crops, whether on or attached to the land or not*, therefore the amount of \$5 million is prescribed for a collective bargain of primary producers for the sale of primary products.

The value of each contract will not exceed A\$5 million in any given 12 month period as based on the average yields and current prices, none of the contracting parties grow the area of crop required to produce A\$5 million worth.

17. The contracting parties do not propose to engage in a collective boycott.

The notified conduct is for collective bargaining without collective boycott.

Section 3 – Declaration by notifying party

Authorised persons of the notifying party must complete the following declaration.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Peter Skillern
Chief Executive Officer

This 11th day of December 2020

Note: If the Notifying Party is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Notifying Party, this fact must be stated.



Australian Competition & Consumer Commission
Notification Branch
470 Northbourne Avenue
DICKSON ACT 2602
CANBERRA ACT
BY EMAIL: exemptions@acc.gov.au

Authorisation of Notified Conduct to the ACCC

The Tasmanian Farmers and Graziers Association (TFGA) is the leading representative body for Tasmanian primary producers. TFGA members are responsible for generating approximately 80% of the value created by the Tasmanian agricultural sector.

The TFGA Pyrethrum Committee, representing pyrethrum growers in Tasmania believe that price negotiations with Botanical Resources Australia are necessary for growers to continue to sustainably grow pyrethrum.

I hereby authorise the lodgement of the notification of proposed collective bargaining by the TFGA, acting on behalf of the TFGA Pyrethrum Committee.

Yours sincerely,



Peter Skillern
Chief Executive Officer
11th December 2020

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