

Department of Primary Industries  
Department of Regional NSW



# Regulatory Impact Statement

## Draft Agricultural Industry Services Regulation 2024

*June 2024*

[www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au)

Published by the NSW Department of Primary Industries

Regulatory Impact Statement - Draft Agricultural Industry Services Regulation 2024

First published 4 June 2024

#### More information

Alice Phu, Manager, Advice and Coordination, Regulatory Policy and Economics, NSW DPI

[www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au)

#### Acknowledgments

The authors of this RIS would like to thank a number of NSW DPI staff for their contributions to the preparation of this document; Fiona Scott, Michelle Anderson, Geetashni Chand and Santhi Wicks made significant contributions to the input, review and adjustment of the material presented in this document.

INT24/33053

---

© State of New South Wales through the Department of Regional NSW, 2024. You may copy, distribute and otherwise freely deal with this publication for any purpose, provided that you attribute the NSW Department of Regional NSW as the owner.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (June 2024). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Regional NSW or the user's independent adviser.

---

## Table of Contents

<b>Executive Summary</b> .....	4
<b>1. About this Regulatory Impact Statement</b> .....	6
1.1. Why is the AIS Regulation being remade? .....	6
1.2. Why has this RIS been prepared?.....	6
1.3. What will this RIS consider?.....	6
1.4. Will the public have a say on the draft Agricultural Industry Services Regulation 2024 and RIS? .....	7
1.5. What will the government do with your submission?.....	8
1.6. Will it be possible to make a confidential submission? .....	8
1.7. Who will be consulted on the draft AIS Regulation 2024 and RIS?.....	8
1.8. How has the draft AIS Regulation 2024 and RIS been advertised?.....	8
<b>2. Key terms and definitions</b> .....	9
<b>3. The need for a Regulation</b> .....	10
3.1. About the AIS Regulation.....	10
3.2. Identification of the need for the Regulation.....	14
3.3. State and Australian government objectives.....	15
<b>4. Legislative framework</b> .....	16
<b>5. The draft Agricultural Industry Services Regulation 2024</b> .....	13
<b>6. Identification of options</b> .....	18
6.1. Options to be assessed.....	18
6.2. Sections of a machinery nature.....	19
<b>7. Assessment of impacts</b> .....	20
7.1. Base Case (Option 1): Remake the Agricultural Industry Services Regulation without amendments.....	20
7.1.1. Overview of the base case (Option 1) .....	20
7.1.2. Identification of impacts under the base case (Option 1) .....	20
7.2. Option 2: Make the draft AIS Regulation 2024.....	24
7.3. Option 3 – Self-regulation (allow the Agricultural Industry Services Regulation 2015 to lapse).....	26
7.3.1. Impacts, benefits and costs under Option 3 – Self-regulation.....	27

7.4. Option 4: Co-regulation (allow the AIS Regulation to lapse)..... 29

7.4.1. Impacts, benefits and costs under Option 4..... 29

7.5 Summary Case for Option 2 - Make the draft AIS Regulation 2024..... 30

**List of Tables**

Table 1 Agricultural Industry Services provided by the RWG..... 13

Table 2 Overview of regulatory provisions for the draft Agricultural Industry Services Regulation 2024..... 13

Table 3 Impact of the Agricultural Industry Services Regulation 2024 under the base case (Option 1) ..... 21

Table 4 Summary of the key amendments to the draft Regulation..... 24

Table 5 Impact, benefits and costs of the provisions under Option 2 (the draft AIS Regulation 2024) relative to the base case..... 25

# Executive Summary

The Agricultural Industry Services Regulation 2015 (the AIS Regulation) is the main instrument used to achieve the objectives of the *Agricultural Industries Services Act 1988* (the Act). The regulation currently applies solely to the Wine Grapes Marketing Board, which is trading as Riverina Winegrape Growers.

The Act provides for the constitution and functions of agricultural industry services committees. The committees may provide a range of services for primary producers of agricultural products in specified areas of NSW such as marketing and promotion, and information for the control of pests. The Riverina Winegrape Growers is the only agricultural industry services committee constituted under the Act.

The AIS Regulation is due for staged repeal on 1 September 2024. It is proposed to re-make this regulation with minor amendments that can be addressed by updating a small number of existing provisions including to:

1. Change the corporate name of the Wine Grapes Marketing Board to Riverina Winegrape Growers
2. Change the definition of a meeting quorum of the agricultural industry services committee to improve flexibility
3. Remove an outdated reference to the former Greater Sunraysia Pest Free Area Industry Development Committee.

Some other minor amendments have been made in the draft Agricultural Industry Services Regulation 2024 (draft AIS Regulation 2024) to adhere to current plain English drafting guidelines and to make the Regulation clearer. See section 5 for supporting information on the proposed amendments.

Remaking the AIS Regulation requires the preparation of a Regulatory Impact Statement (RIS) and a period of public consultation.

This RIS assesses four options with Option 2 being the recommendation of the NSW Department of Primary Industries (NSW DPI). The four options are:

- Base Case (Option 1): Remake the AIS Regulation without change
- Option 2 (preferred option): Remake the AIS Regulation with the proposed changes
- Option 3: Self-regulation by industry (allowing the AIS Regulation to lapse)
- Option 4: Co-regulation by industry and government (allowing the AIS Regulation to lapse)

Option 2 is the preferred option, as it generates the greatest net benefits to the winegrape businesses and government. Option 2 will deliver an updated AIS Regulation that includes appropriate amendments to make it an efficient and effective piece of legislation relative to Option 1 (the base case). The draft AIS Regulation 2024 is:

- expected to facilitate the operation of the Act by enacting a statutory industry committee to provide services to a defined constituency of agricultural producers

- consistent with community expectations regarding the Riverina Winegrape Growers as a service committee and does not impose an unnecessary regulatory burden on the community.

Option 3 and 4 are not preferred, as they would increase the likely risks and costs to winegrape businesses in the Riverina and increase costs to the NSW Government.

Potential impacts include:

- the objectives of the Act would not be achieved, and the industry and community benefits of the existing arrangements would be lost
- increased costs to individual growers
- potential increase in government biosecurity costs, and
- a reduction in services leading to reduced business productivity and profitability.

# 1. About this Regulatory Impact Statement

## 1.1. Why is the AIS Regulation being remade?

The AIS Regulation is due for staged repeal on 1 September 2024 in accordance with the *Subordinate Legislation Act 1989* (SL Act). The remake of this regulation requires the preparation of a Regulatory Impact Statement (RIS) and public consultation. A regulation that is due for staged repeal may be:

- allowed to lapse
- maintained and the staged repeal process postponed
- remade with or without amendments.

Through the staged repeal process, the NSW Government and the Riverina Winegrape Growers have reviewed the AIS Regulation and identified the changes required. Minor changes to a small number of existing provisions are recommended for optimal management of constitutions and functions of agricultural industry services committees.

## 1.2. Why has this RIS been prepared?

Section 5 of the SL Act provides that before a regulation is made, a RIS should be prepared in connection with the substantive matters to be dealt with by the regulation. Substantive matters of the regulation comprise of an assessment of the impacts of the provisions under the draft regulation and the alternative options.

## 1.3. What will this RIS consider?

Schedule 2 of the SL Act prescribes that a RIS must contain:

- a statement of the **objectives** sought to be achieved and the reasons for them
- an identification of the **alternative options** by which those objectives can be achieved (whether wholly or substantially)
- an assessment of the **costs and benefits of the draft statutory rule**, including the costs and benefits relating to resource allocation, administration, and compliance
- an assessment of the **costs and benefits of each alternative option** to the making of the statutory rule (including the option of not proceeding with any action), including the costs and benefits relating to resource allocation, administration and compliance
- an assessment as to which of the alternative options involves the **greatest net benefit or the least net cost** to the community
- a statement of the **consultation program** to be undertaken.

It is also a matter of practice that the NSW Treasury's seven principles of Better Regulation are applied when designing and developing a regulatory proposal. A description of these principles and their application may be found in the NSW Government Guide to Better Regulation (see [TPP19-01](#)).

In accordance with Schedule 2 of the SL Act, this RIS has assessed specified principles of the 1995 Competition Principles Agreement (clauses 1(3), 5(1) and 5(9)), with respect to the AIS Regulation and the draft AIS Regulation 2024. The requirements of these principles include:

- Clause 1(3) – This agreement primarily calls: i) for the costs of the policy to be commensurate with the benefits, ii) the merits or appropriateness of the policy to be determined and iii) an assessment of the most effective means of achieving the policy objectives. Optional matters in clause 1(3) that are relevant to the assessment of this regulation include economic and regional development, competitiveness of businesses and the efficient allocation of resources.
- Clause 5(1) – Legislation should not restrict competition unless i) benefits of the restriction outweigh the costs and ii) the objectives of the legislation can only be achieved by restricting competition.
- Clause 5(9) – A review should: i) clarify the objectives of the legislation, ii) identify the nature of the restriction on competition, iii) analyse the likely effect of the restriction on competition and on the economy generally, iv) assess and balance the costs and benefits of the restriction and v) consider alternative means for achieving the same result including non-legislative approaches.

Policy and economic analysis conducted for this RIS demonstrates that the draft AIS Regulation 2024 meets the requirements of clause 1(3) and in accordance with clause 5(9), section Chapter 5 of the RIS outlines objectives of the draft AIS Regulation 2024. The draft AIS Regulation 2024 does not affect competitive neutrality between governments and businesses or restrict competition.

## 1.4. Will the public have a say on the draft Agricultural Industry Services Regulation 2024 and RIS?

Yes. The draft AIS Regulation 2024 and RIS will be publicly exhibited for a period of 29 days until 3 July 2024 at 11:59pm.

The draft Regulation and RIS are accessible at:

- The NSW DPI website: <https://www.dpi.nsw.gov.au/about-us/legislation/list/agricultural-industry-services/draft-agricultural-industry-services-regulation-2024>
- The NSW Have your say website: <https://www.nsw.gov.au/have-your-say/ag-industry-services-regulation-2024>

Submissions can be posted to:

1. By email to: [dpi.cabinet@dpi.nsw.gov.au](mailto:dpi.cabinet@dpi.nsw.gov.au)
2. By post to:

Agricultural Industry Services Regulation 2024

Regulatory Policy & Economics, Strategy and Engagement

NSW Department of Primary Industries

Level 3/66 Harrington St – Foreshore House, The Rocks – Sydney NSW 2000



The closing date for submissions is 3 July 2024 at 11:59pm.

## 1.5. What will the government do with your submission?

NSW DPI will review all submissions received by the closing date and consider the issues raised.

The Minister for Agriculture is required to consider submissions and actions arising from the submissions. The draft AIS Regulation 2024 may be amended following consideration of any issues or comments made in the submissions.

A copy of all submissions will be provided to the Legislation Review Committee of the NSW Parliament with the final version of the Regulation. The Committee will also be provided with a report on the outcomes of consultation detailing the issues raised in submissions and how these have been addressed.

## 1.6. Will it be possible to make a confidential submission?

NSW DPI generally places submissions, or summaries of submissions received, on its website. Please advise us if you do not want your submission published or if you want part of it to be kept confidential (e.g., your name). NSW DPI will respect your request, unless required by law to disclose this information, for example under the provisions of the *Government Information (Public Access) Act 2009*.

## 1.7. Who will be consulted on the draft AIS Regulation 2024 and RIS?

NSW DPI is seeking input from the community, stakeholder groups including the Riverina Winegrape Growers and grower members, and government agencies,

## 1.8. How has the draft AIS Regulation 2024 and RIS been advertised?

A notice of the draft AIS Regulation 2024 and RIS has been published in the [NSW Government Gazette](#) and in the following NSW newspapers (*effective from 12 June 2024*):

- Sydney Morning Herald
- The Daily Telegraph

A notice has also been placed on the following websites:

- NSW DPI website: <https://www.dpi.nsw.gov.au/about-us/legislation/list/agricultural-industry-services/draft-agricultural-industry-services-regulation-2024>
- Have your say: <https://www.nsw.gov.au/have-your-say/ag-industry-services-regulation-2024>
- The Riverina Winegrape Growers website: <https://riverinawinegrapes.com.au/>

## 2. Key terms and definitions

Term	Definition
ABS	Australian Bureau of Statistics
Act	<i>Agricultural Industries Services Act 1988</i>
AIS Regulation	Agricultural Industry Services Regulation 2015
NSW DPI	New South Wales Department of Primary Industries
MIA	Murrumbidgee Irrigation Area
Draft AIS Regulation 2024	Draft Agricultural Industry Services Regulation 2024
Provision	A provision is a component of a regulation or Act. Provisions may provide powers to persons or require a person to undertake a specific activity.
RIS	Regulatory Impact Statement
R&D	Research and development
RWG	Riverina Winegrape Growers

## 3. The need for a Regulation

### 3.1. About the AIS Regulation

#### Background information

A regulation made under the Act may establish agricultural industry services committees to perform specified agricultural industry services for a specified class of primary producers and for a specified class of primary products grown, raised, produced, packed, processed or marketed within a specified area. The Wine Grapes Marketing Board, trading as the Riverina Winegrape Growers (RWG) since 2019, is currently the only agricultural industry services committee constituted under the AIS Regulation, and this will continue under the draft AIS Regulation 2024. Previously, there were several other committees listed under the regulation e.g., some of these were the Greater Sunraysia Pest Free Area Committee, Riverina Citrus, the Murray Valley Citrus Board, and the Murray Valley Citrus Board Selection Panel. There is opportunity for more industry boards or committees to become part of the Regulation in the future if required.

The AIS Regulation also provides for the conduct of polls and elections for agricultural industry services committees, as will the draft AIS Regulation 2024.

The RWG services independent winegrape businesses, growers that are not connected to a winery, and produce more than 20 tonnes of winegrapes annually within its area of operation within the Riverina region. The RWG consists of seven members, five of whom are elected by winegrape growers and two appointed by the five elected members of the committee.

The RWG represents the interests of winegrape businesses within the City of Griffith and the Shires of Leeton, Carrathool and Murrumbidgee.



The area is a warm climate region<sup>1</sup> for wine grape growing within the Riverina region of NSW. In 2020-21 there was a total of 17,637ha of grapes for wine production in Griffith, Leeton, Carrathool and Murrumbidgee, (or 38% of the total NSW production) and 242 businesses with a value of production estimated at \$140.7M, with the total NSW value of production estimated at \$252.5M.

---

<sup>1</sup> NSW DPI (2023) Performance, Data and Insights 2023 - Wine Grapes, <https://www.dpi.nsw.gov.au/about-us/publications/pdi/2023/wine-grapes>

The NSW wine grape industry has faced several challenges in recent years. Export volumes and values have steadily declined since 2020, brought about in part by the imposition of high tariffs by the Chinese government, which effectively shut down the Chinese market (Error! Reference source not found.). While good seasonal conditions have promoted high production in recent years this, combined with lower wine export volumes and increased competition from imports, has resulted in rising wine inventories and an oversupply of winegrapes.

The increasing domestic supply has placed significant downward pressure on winegrape prices, particularly on prices from winegrapes in the warmer grape-growing regions such as the Riverina. In 2023, Australian red grape variety prices fell 30% below the peak reached in 2020 and 2% below average (Wine Australia, 2023)<sup>2</sup>.

Figure 1: Australia Wine Trade Value



Source: S&P Global (2023) Global Trade Atlas.

## Uses and benefit of the AIS Regulation

The AIS Regulation establishes the RWG and sets out the agricultural industry services for which the RWG is constituted, this will continue in the draft AIS Regulation 2024. The benefits from the RWG operations include contract facilitation, promotion activities, information and R&D provision, education and training and representation of wine

<sup>2</sup> Wine Australia 2023 National vintage report <https://www.wineaustralia.com/market-insights/national-vintage-report>

growers in the region of operations in relation to those matters. The agricultural industry services provided by the RWG are summarised in Table 1.

**Table 1 Agricultural Industry Services provided by the RWG.**

Benefits	Summary
Contract facilitation	<ul style="list-style-type: none"> <li>a) Development of a code of conduct for contract negotiations between wine grape growers and wineries</li> <li>b) Development of draft contract provisions with respect to the sale of MIA wine grapes<sup>3</sup> to wineries, including provisions with respect to: <ul style="list-style-type: none"> <li>o the prices to be paid by wineries, and</li> <li>o the terms and conditions of payment to be observed by wineries, in relation to MIA wine grapes delivered to them by wine grape growers.</li> </ul> </li> </ul>
Information and R&D provision	<ul style="list-style-type: none"> <li>c) Collection and dissemination of market and industry information, including the production and publication of indicator prices for MIA wine grapes grown in the committee's area of operations.</li> <li>d) Conduct of research and development into plant health in relation to wine grapes.</li> </ul>
Education and training	<ul style="list-style-type: none"> <li>e) Provision of education and training in relation to wine grape production and marketing.</li> </ul>
Promotion activities	<ul style="list-style-type: none"> <li>f) Promotion of private contracts for the sale of MIA wine grapes to wineries by wine grape growers.</li> <li>g) Promotion (in association with organisations representing wineries) of wine made from MIA wine grapes.</li> <li>h) Promotion of regional industry, including regional winemaking, within the Board's area of operations.</li> <li>i) Representation of the wine grape industry in relation to the matters referred to in paragraphs (a)–(h).</li> </ul>

---

<sup>3</sup> MIA wine grapes means a variety of grapes grown within the Committee's area of operations for processing into wine, must, juice or wine spirit.

The RWG provides additional value to grower members in the form of local industry knowledge and expertise. The value of the RWG lies in the fact that it is a regionally based and regionally focussed organisation, governed by local growers and grower-elected representatives, and funded directly by its grower members.

### 3.2. Identification of the need for the Regulation

The NSW Treasury Guide to Better Regulation (TPP19-01) requires an explanation of the need for government action (Principle 1). The following section provides background information on why there is a need for government to be involved, i.e., for the AIS Regulation to exist.

Government action is generally justified based on responding to market failures or imbalances. Market failure refers to a situation where a market, left to itself, does not allocate resources efficiently. The production and sale of wine grapes predominately benefits wine producers, however, without government intervention there are some services that the wine industry would not efficiently provide. It is considered that the services provided by the agricultural industry committees, such as the RWG established under the AIS Regulation, would not be adequately provided under a voluntary scheme due to the presence of market failures including industry good, spillovers, imperfect competition and asymmetrical information<sup>4</sup>.

**Industry good** refers to a form of public good where benefits of the provision of the good or service accrue to a narrower referent group than the whole community, in this case, wine grape growers in the Riverina. In terms of ‘industry good’ characteristics, these relate to research and product promotion activities. Non-excludability and non-rivalry are the two qualities that define a public or an industry good. In this case, wine grape growers from other regions could not be prevented from using the results of research conducted in the Riverina or benefitting from wine promotion activities (non-excludability).

**Spillovers** associated with pest control activities, for example, if pest and disease control activities were voluntary, it is possible that under provision of these activities could

---

<sup>4</sup> NSW Department of Industry (2017) Market failure guide—A guide to categorising market failures for government policy development and evaluation, [https://media.opengov.nsw.gov.au/pairtree\\_root/41/eb/7e/1a/65/1b/4e/a2/b8/d8/68/9a/1d/8d/75/1a/obj/PUB17\\_509\\_Market\\_failure\\_guide.pdf](https://media.opengov.nsw.gov.au/pairtree_root/41/eb/7e/1a/65/1b/4e/a2/b8/d8/68/9a/1d/8d/75/1a/obj/PUB17_509_Market_failure_guide.pdf)

negatively impact pest management on neighbouring properties. The activities of the RWG help to reduce spillovers.

The development and promotion of draft contract provisions by the RWG addresses both the 'imperfect competition' and 'asymmetrical information' problems by facilitating and encouraging more efficient marketing arrangements.

Information asymmetry occurs where some parties in a market have possession of more (or better) information than others and they use this information to their own advantage. The supply of market price information by the RWG addresses the 'asymmetrical information' problem by making sure all wine grower members in the market have the same information.

### 3.3. State and Australian government objectives

Wine Australia is the Australian grape and wine sector's statutory research and innovation, marketing and regulatory body, and is funded by grape growers and winemakers through levies and user-pay charges. Levies collected for the wine industry are to fund marketing research and development and plant health integrity for the Australian wine industry. The three Commonwealth levies that apply to the Australian wine industry are the grape research levy, the wine export levy and the wine grapes levy. These levies are collected and administered by the Australian Government on behalf of the industry.

The functions and powers of the Australian wine industry is subject to the *Wine Australia Act 2013* and the *Wine Australia Regulation 2018*. A self-regulated Code of Conduct has been developed for the wine industry as a foundation for building relationships between growers and winemakers. The Code sets minimum standards relating to grape purchasing and provides a quick and cost-effective dispute resolution mechanism.

The NSW Government provides targeted support to the RWG. To support the wine grape growers, NSW DPI invests in research, development and extension activities across the NSW wine growing regions.

The RWG, as the only agricultural industry committee currently under the AIS Regulation, funds their own activities through an industry service charge (a compulsory levy). This levy funds activities conducted by the RWG such as regionally specific research, market education, industry training and accreditation, and promotional activities. Growers have consistently voted in favour of their Board's operational budget and the annual levy rate without objection.

The NSW Government has also prepared M2013-06 - NSW Government Boards and Committees Guidelines based on best practice principles to promote accountability and integrity through providing advice on certain areas of interest, support consultation with



the community or oversee service delivery. Boards and committees established under the AIS Regulation are required to comply with these guidelines.

## 4. Legislative framework

This chapter outlines the role of the AIS Regulation within the existing legislative framework. A summary of the draft AIS Regulation 2024 is provided in Chapter 5.

The *Agricultural Industry Services Act 1998* (the Act) is the primary legislation that sets the foundation for strategic and coordinated management of the constitutions and functions of agricultural industry services committees. The Act is supported by the AIS Regulation.

The AIS Regulation recognises the *Murray Valley Wine Grape Industry Development (Extra-territorial) Order 2016* made under section 8 of the *Agricultural Industry Development Act 1990* of Victoria as a foundation instrument. This means that the functions, services and powers of the Murray Valley Wine Grape Industry Development Committee (established under the Order) apply to the NSW local government areas of Balranald, Murray, Wakool and Wentworth, in relation to wine grapes, the production area and the wine grape growers.

## 5. The draft Agricultural Industry Services Regulation 2024

The draft AIS Regulation 2024 has been prepared by the Parliamentary Counsel's Office and informed by internal review from NSW DPI and consultation with the RWG.

The overarching objective of the draft AIS Regulation 2024 is to maintain and improve the:

- management of constitutions and functions of the agricultural industry services committees
- operation of the interstate arrangements ensuring services, function and powers of the foundation instrument are applied effectively
- polling and election process of the agricultural industry services committees.

This review identified improvements that could be made by amending a small number of existing provisions related to the constitution of agricultural industry services committees. These changes include updating the corporate name, meeting quorum and outdated references to definitions.

A summary of provisions in the existing AIS Regulation and the proposed amendments is provided in Table 2. Some of the differences between the AIS Regulation and the draft AIS Regulation 2024 are to adhere to current plain English drafting guidelines and the current drafting standard to make the Regulation clearer.

**Table 2 Overview of regulatory provisions for the draft Agricultural Industry Services Regulation 2024**

Provision group	Regulatory provisions of the Agricultural Industry Services Regulation 2015	Transition of existing regulatory provisions to the draft Regulation		
		As is	With minor amendments	Deleted
Part 2 Wine Grapes Marketing Board	Division 1 Definitions	√ s17		
	Division 2 Establishment and functions of the Committee		√ s5(1)	

Provision group	Regulatory provisions of the Agricultural Industry Services Regulation 2015	Transition of existing regulatory provisions to the draft Regulation		
		As is	With minor amendments	Deleted
	<ul style="list-style-type: none"> <li>cl5(1) Outlines the establishment of an agricultural industry services committee under the name “Wine Grapes Marketing Board”.</li> <li>cl6-9 Establishes the class of primary producers, area of operations, commodity and agricultural industry services, of the Board.</li> </ul>	<p>√ s6-9</p>	<p>Without changing the intent of the provision, amended to update the name of the “Wine Grapes Marketing Board” to “Riverina Winegrape Growers” in alignment with its trading name.</p> <p>References to 'Board' have been updated to 'Committee' to reflect the language of the Act.</p>	
	<p><b>Division 3 Other provisions relating to the Committee</b></p> <ul style="list-style-type: none"> <li>cl10 Membership of Committee.</li> <li>cl11 Quorum for meeting of Committee.</li> <li>cl12 Voting entitlements of constituents.</li> <li>cl13 Specifies the quorum for a Committee meeting is 30 constituents.</li> <li>cl14 End of Committee's financial year.</li> </ul>	<p>√ s10-12,14</p>	<p>√ s13</p> <p>Without changing the intent of the provision, amended to state that the quorum for a meeting of the agricultural industry services committee's constituents is 5% of the total number of registered constituents at the end of the last calendar year. This ensures the legislation remains flexible to membership changes over time e.g., if there are fewer members.</p>	

Provision group	Regulatory provisions of the Agricultural Industry Services Regulation 2015	Transition of existing regulatory provisions to the draft Regulation		
		As is	With minor amendments	Deleted
Part 3 Interstate arrangements	<p><b>cl15</b></p> <p>Recognises the Greater Sunraysia Pest Free Area Industry Development Order 2014 (Vic) applies to the New South Wales portion of the Greater Sunraysia Pest Free Area in relation to citrus fruit, stone fruit and table grapes.</p>			<p>√ s15</p> <p>Deleted because the provisions refer to an Industry Development Order that is no longer relevant – the Greater Sunraysia Pest Free Area Industry Development Committee was wound up in 2019. The content of the clause is now covered by provisions in the <i>Biosecurity Act 2015</i>.</p>
	<p><b>cl16</b></p> <p>Recognises the Murray Valley Wine Grape Industry Development (Extra-territorial) Order 2016 (Vic) applies to the areas of Balranald, Wakool and Wentworth in relation to wine grapes.</p>	<p>√ s16</p> <p>Maintained to clarify this order applies to any variety of grapes grown in those areas near the border of NSW and Vic that are used or intended to be used for processing into wine, must, juice or wine spirit.</p>		
Part 4 Polls and elections	<p><b>Division 1 Preliminary</b></p> <ul style="list-style-type: none"> <li>• <b>cl4 Definitions</b> – provides definitions of key terms</li> </ul> <p><b>Division 2 Polls</b></p> <ul style="list-style-type: none"> <li>• <b>Calling of poll</b> – Outlines the process for a poll to be taken on any questions as directed by the Minister. The process includes the date and time for close of enrolments and poll.</li> </ul>		<p>√ s(1)</p> <p>Amended to include a definition for ‘approved form’ to clarify that it means the form approved by the returning officer.</p> <p>√ Minor rewording of clauses throughout Division 2 to clarify the polling process and modernise language – no material change apart from s 19 (1) (a) (i) (ii).</p>	<p>√ s19(1)(a)(i)(ii)</p> <p>Deleted because publishing the notice of poll in newspaper is considered outdated.</p>

Provision group	Regulatory provisions of the Agricultural Industry Services Regulation 2015	Transition of existing regulatory provisions to the draft Regulation		
		As is	With minor amendments	Deleted
	<ul style="list-style-type: none"> <li>• <b>Preparation of final roll</b> – Outlines the process for a person to vote in a poll.</li> <li>• <b>Subdivision 3 The ballot (Polls)</b> – Outlines the voting and distribution of ballot papers process.</li> <li>• <b>The scrutiny (Polls)</b> – Outlines the result of a poll and scrutiny of votes. The process includes the requirement for the Electoral Commissioner to notify the Minister in writing the result of the poll.</li> </ul>	√		
	<p style="text-align: center;"><b>Division 3 Elections</b></p> <ul style="list-style-type: none"> <li>• <b>Calling of election</b> – Outlines the process for calling an election.</li> <li>• <b>Nominations</b> – Outlines the eligibility for nomination as a candidate for election</li> <li>• <b>Calling of ballot</b> – Outlines the process for calling of ballot for election.</li> <li>• <b>Preparation of final roll</b> – Outlines the process for preparation of final roll including exhibition of</li> </ul>		√ Minor rewording of sections throughout Division 3 to clarify the election process and to modernise language.	

Provision group	Regulatory provisions of the Agricultural Industry Services Regulation 2015	Transition of existing regulatory provisions to the draft Regulation		
		As is	With minor amendments	Deleted
Part 4 Polls and elections	<p>preliminary roll for public inspection.</p> <ul style="list-style-type: none"> <li>• <b>The ballot (Elections)</b> – Outlines the process for the ballot during an election.</li> <li>• <b>The scrutiny (Elections)</b> – Outlines the result of ballot and scrutiny of votes.</li> </ul>			
	<p><b>Division 4 Register of constituents</b> – Outlines the form and content of the register of constituents.</p> <p><b>Division 5 General</b> – Outlines some general provisions relating to any poll or election.</p>		<p>√</p> <p>Without changing the intent of the provisions, re-numbering of Division 4 to be a Part of its own as: Part 5 Register of constituents</p> <p>√ Without changing the intent of the provision, re-numbering of Division 5 as: Division 4 General</p> <p>Also, minor rewording to clarify the general provisions relating to death of candidate, concurrent polls and elections, offences and expenses for polls and elections.</p>	

## 6. Identification of options

In accordance with the SL Act and the NSW Government Guide to Better Regulation, this assessment:

- considers a range of viable options
- identifies and assesses the impacts of government action for each option relative to a base case
- considers the costs and benefits of each option relative to the base case
- identifies a preferred option that provides the greatest benefit to stakeholders, the community and the environment.

### 6.1. Options to be assessed

The AIS Regulation contains the current regulatory provision and under the base case (Option 1) these provisions would be remade with no change.

The options assessed against the base case (Option 1) include:

- Option 2: Make the draft AIS Regulation 2024
- Option 3: Self-regulation (allows the regulation to lapse)
- Option 4: Co-regulation (allows the regulation to lapse)

These are the only options considered feasible in this RIS.

Details of the provisions for Option 2 - the draft AIS Regulation - are presented in Table 2 and would replace existing measures on 1 September 2024.

If no further actions are taken by the NSW Government, the AIS Regulation would lapse on 1 September 2024 and no new regulation would be made in its place. Two options may be assessed in this case, self-regulation (Option 3) and co-regulation (Option 4).

- **Option 3: Self-regulation** - under this option, the AIS Regulation would lapse and wine grape businesses in the Murrumbidgee Irrigation Area and Riverina regions of NSW would have to organise information and agricultural industry services currently provided by the RWG. They could either work independently or collaborate to provide these services as a voluntary group.

The NSW Government would have no role under this option.

- **Option 4: Co-regulation** — under this option the AIS Regulation would lapse and wine grape businesses in the Murrumbidgee Irrigation Area and Riverina regions of NSW would collaborate with the NSW Government to organise information and agricultural industry services currently provided by the RWG.

These voluntary groups would deliver information and agricultural industry services committees and the NSW Government would provide legislative backing to maintain standards to deliver these services.

## 6.2. Sections of a machinery nature

The draft AIS Regulation 2024 includes a number of regulatory provisions of a machinery nature. Generally speaking, sections of a machinery nature are those which could broadly be described as relating to 'process' rather than a substantive policy matter.

Sections of a machinery nature in the draft AIS Regulation 2024 include:

- Section 1 – Name of the Regulation
- Section 2 – Commencement date of the Regulation
- Section 3 – Definitions
- Section 4 – Definitions
- Section 15 – Definitions
- Part 4 - Miscellaneous
- Section 75 – Savings.

The above matters are of a machinery nature and so do not require further assessment in the RIS. That is, remaking these provisions will result in no substantial policy change.



## 7. Assessment of impacts

In this assessment, the impacts, benefits and costs of propositions under Options 2 through 4, are compared with those from the base case (Option 1). The direct and indirect impacts of each option have also been considered. Direct impacts are the immediate impacts on stakeholders, whereas indirect impacts are those affecting a third party.

### 7.1. Base Case (Option 1): Remake the Agricultural Industry Services Regulation without amendments.

#### 7.1.1. Overview of the base case (Option 1)

Under the base case the existing regulatory provisions under the AIS Regulation would be remade, as is, with no amendments, on 1 September 2024. A description of the provisions under the base case is provided in Table 2 of Chapter 5.

#### 7.1.2. Identification of impacts under the base case (Option 1)

Under Option 1, the existing powers of the AIS Regulation would continue to support the following activities for wine grape growers in the Riverina:

- Contract facilitation
- The provision of information and research and development
- Education and training activities, and
- Promotion activities.

A list of the provisions and the impacted is provided in Table 3. The community, businesses and government are not impacted by the Regulation.

**Table 3 Impact under the base case (Option 1- Remake the Agricultural Industry Services Regulation without amendments)**

Provision group	Impact: Under the base case (Option 1)	Who is impacted?	
		Businesses	Government
Part 2 Wine Grapes Marketing Board	<b>Division 2 Establishment and functions of the Board</b> <ul style="list-style-type: none"> <li>• cl.5 Establishment of the Board.</li> <li>• cl 6-9 Clearly defining the establishment conditions and the key functions of the Board.</li> </ul>	✓	✓
	<b>Division 3 Other provisions relating to Board.</b> <ul style="list-style-type: none"> <li>• cl. 10-12, 14 Regulates the Board's structure and tenure and supports it to function effectively.</li> <li>• cl.13 A quorum that reflects the changing nature of membership ensures a broad representation of constituents.</li> </ul>	✓	✓
Part 3 Interstate arrangements	<ul style="list-style-type: none"> <li>• c15 Recognises the Greater Sunraysia Pest Free Area Industry Development Order 2014 (Vic) applies to the New South Wales portion of the Greater Sunraysia Pest Free Area in relation to citrus fruit, stone fruit and table grapes.</li> </ul>	✓	✓
	<ul style="list-style-type: none"> <li>• c16 Recognises the Murray Valley Wine Grape Industry Development (Extra-territorial) Order 2016 (Vic) applies to the areas of Balranald, Wakool and Wentworth in relation to wine grapes.</li> </ul>	✓	✓
Part 4 Polls and elections	<b>Division 2 Polls</b> <ul style="list-style-type: none"> <li>• Calling of poll – Outlines the process for a poll to be taken on any questions as directed by the Minister. The process includes the date and time for close of enrolments and poll.</li> <li>• Preparation of final roll – Outlines the process for a person to vote in a poll.</li> <li>• Subdivision 3 The ballot (Polls) – Outlines the voting and distribution of ballot papers process.</li> <li>• The scrutiny (Polls) – Outlines the result of a poll and scrutiny of votes. The process includes the requirement for the Electoral Commissioner to notify the Minister in writing the result of the poll.</li> </ul>		

<p><b>Division 3 Elections</b></p> <ul style="list-style-type: none"> <li>• Calling of election – Outlines the process for calling an election.</li> <li>• Nominations – Outlines the eligibility for nomination as a candidate for election</li> <li>• Calling of ballot – Outlines the process for calling of ballot for election.</li> <li>• Preparation of final roll – Outlines the process for preparation of final roll including exhibition of preliminary roll for public inspection.</li> <li>• The ballot (Elections) – Outlines the process for the ballot during an election.</li> <li>• The scrutiny (Elections) – Outlines the result of ballot and scrutiny of votes.</li> </ul>	✓	✓
<p><b>Division 4 Register of constituents</b></p> <ul style="list-style-type: none"> <li>• Outlines the form and content of the register of constituents.</li> </ul>	✓	
<p><b>Division 5 General</b> Outlines some general provisions relating to any poll or election.</p>	✓	

## 7.2. Option 2: Make the draft AIS Regulation 2024

Under Option 2, the draft AIS Regulation 2024 is made to support the Act and prescribed management rules for operation of the RWG.

NSW DPI reviewed the AIS Regulation, in consultation with the RWG, and found that improvements could be made by amending a small number of existing provisions related to the constitution of agricultural industry services committees. These changes are recommended for optimal management of constitutions and functions of the committee. A summary of the proposed amendments is provided in Table 2 of Chapter 5.

Under the draft AIS Regulation 2024, all regulatory provisions of the Agricultural Industry Services Regulation would continue except for some minor changes to some clauses (see Table 4) and amendments to the drafting to adhere to current plain English drafting guidelines and to make the draft AIS Regulation clearer. Only the clauses in Part 2 require assessment in this RIS.

**Table 4 Summary of the key amendments to the draft Regulation**

Title of the amended or new provisions	Type of change
Part 2, s.5(1) Update the name of the “Wine Grapes Marketing Board” to “Riverina Winegrape Growers”	Amended
Part 2, s.13 Amend the definition of a quorum	Amended
Part 3, s.15 Deleted because the provisions refer to an Industry Development Order that is no longer relevant	Deleted
Part 4, s.17(1) Amend to reflect current government administrative arrangements.	Amended

A summary of the impacts, costs and benefits from the amended provisions is provided below in

Table 5.

Table 5 shows that Option 2 provides operational improvements. There are likely to be very minor increases in costs to the government and the RWG from implementing and complying with these changes. The changes will deliver an updated Regulation with appropriate amendments to make it an efficient and effective piece of legislation. For these reasons, Option 2 - the draft AIS Regulation 2024 - is preferred to remaking the AIS Regulation without amendments (Option 1).

Table 5 Impact, benefits and costs of the provisions under Option 2 (the draft AIS Regulation 2024) relative to the base case

Provision group	Draft amendment	Impact	Benefits	Costs
<b>Part 2 - Wine Grapes Marketing Board Division 2 Establishment and functions of the Board cl.5(1)</b>	Update the name of the "Wine Grapes Marketing Board" to "Riverina Winegrape Growers"	Aligns with the trading name, ensuring consistency and avoids confusion.	Streamlines communications between the RWG, stakeholders and trading partners.  Reduces potential confusion between the RWG, stakeholders and trading partners.	Minor administrative cost by RWG to advise all stakeholders and trading partners of the change and update documentation.
<b>Part 2 - Wine Grapes Marketing Board Division 3 Other provisions relating to the Board cl.13</b>	Amended to state that the quorum for a meeting of the committee's constituents is 5% of the total number of registered constituents at the end of the last calendar year.	This ensures the legislation remains flexible to membership changes over time e.g., if there are fewer members.	Improved flexibility may reduce the need to cancel meetings and reduce costs associated with cancelled meetings (attendees time, inconvenience).	Minor administrative cost by RWG to change future meeting documentation.



The AIS Regulation constitutes the “Wine Grapes Marketing Board” as a services committee to support wine grape growers within the City of Griffith and the Shires of Leeton, Carrathool and Murrumbidgee, for those growers who harvest more than 20 tonnes/year of wine grapes.

The AIS Regulation assigned the Wine Grapes Marketing Board, now trading as Riverina Winegrapes Growers (RWG), responsibility for the industry service functions that were found to meet the public benefit test under National Competition Policy principles. This committee funds the provision of these services by levying a compulsory charge of \$3.90 per tonne of wine grapes delivered by growers to wineries. The levy, and a budget and operational plan, are agreed annually by growers at a general meeting, as required under section 14 of the Act.

None of the proposed amendments change the area of operations for the RWG and:

- the draft AIS Regulation 2024 with the amendments can be made pursuant to section 5(1) of the Act; and
- section 22 of the Act does not apply, with the effect that a poll of constituents is not required to make the Regulation with the amendments.

Overall, this analysis finds that the minor amendments proposed will not affect the existing arrangements through the proposed statutory rule that provide net benefits to the Riverina winegrape growing industry and to the broader community.

The draft AIS Regulation 2024 remains consistent with the objectives and regulation-making powers of the Act.

### 7.3. Option 3 – Self-regulation (allow the Agricultural Industry Services Regulation 2015 to lapse)

Under Option 3, the AIS Regulation would lapse on 1 September 2024 and self-regulation by industry would be implemented in response to the change. Further, the regulatory provisions detailed in the base case (Section 7.1) would cease to exist and no new regulation would be made in its place.

Allowing the AIS Regulation to lapse would mean that there would be no regulation to support the provisions of the Act. The RWG is the only agricultural industry services committee constituted under the Act.

The two potential scenarios under this Option include either:

1. The Riverina winegrape industry could formulate a voluntary code of conduct to provide clarity relating to the provisions of the Act. This voluntary group would also be responsible for the monitoring and enforcement of these rules.
2. Industry would be unable to coordinate, and the services would no longer be available for the winegrape producers.

The NSW Government would have no role under this option. The Electoral Commission would no longer be responsible for conducting committee polls and elections.

Additionally, any voluntary group that is formed would need to conduct its own polls and elections.

Not remaking the AIS Regulation would be against the wishes of the constituency of winegrape growers in the Riverina, who continue to support the RWG and the services it provides. Industry support for the RWG is evidenced by the annual ratification by growers of the compulsory charge (Annual Report 2022; \$3.90/tonne)<sup>5</sup>. This could be seen as evidence that voluntary subscription would fail to deliver the desired services due to the “free rider” problem, whereby individuals have an incentive to avoid paying in the belief that others will do so.

It is possible that a level of promotion and market access activity would be organised on an individual business basis, however there would be elements of market failure in specific areas. These include:

- the risk of pests and diseases spreading to the whole production area if left to individuals’ decisions whether to incur a cost of pest control
- in the absence of industry-wide approaches to funding R&D activities, under-investment may occur due to difficulty for individual businesses to capture the full benefits of obtaining information or of generic promotion, and
- a key role of the RWG is to encourage private contracts between growers and wineries. Developing a code of conduct and draft contract provisions to facilitate this requires a region-wide approach and is beyond the ability and resources of individual growers.

In summary, allowing the AIS Regulation to lapse would limit the effective implementation of the Act, and prevent its objectives from being fully achieved.

### 7.3.1. Impacts, benefits and costs under Option 3 – Self-regulation

Lapse of the AIS Regulation would have a range of impacts, costs and benefits. The following section provides a qualitative assessment of the impacts, benefits and costs of Option 3 - the AIS Regulation is allowed to lapse - relative to the base case.

If winegrape businesses in the Riverina wished to continue to supply services to all growers in the absence of a regulation, it would only be able to administer a voluntary levy, or subscription, on growers. However, without legislative support for a compulsory charge, it is likely that substantially less than half of the grower constituency would contribute, despite the activity being in the industry’s collective interest.

---

<sup>5</sup> Wine Grapes Marketing Board (2023) [https://riverinawinegrapes.com.au/wp-content/uploads/2023/06/RWGMB\\_Annual\\_Report-2022.pdf](https://riverinawinegrapes.com.au/wp-content/uploads/2023/06/RWGMB_Annual_Report-2022.pdf)

It is considered that “free-rider problems” would then rapidly erode grower support and undermine the financial viability of the committees, eventually requiring them to be dissolved. This would not achieve the objectives of the Act, and the industry and community benefits of the existing arrangement would be lost.

The key impacts are summarised below:

### **Businesses (winegrape growers)**

A reduction in the:

- Development and promotion of draft contract provisions which facilitate more efficient marketing arrangements
- Supply of actual market price information to growers leading to sub-optimal marketing decisions by winegrape growers and lost profitability
- R&D into plant health leading to poorer plant health outcomes and lost productivity
- Winegrape promotion activities
- Costs to growers. Growers would no longer be required to pay an amount per tonne to the Board (\$3.90/tonne in 2022)

Increased voluntary costs to individual growers to replace the services delivered by the Board.



### **Governments**

- A potential increase in biosecurity costs due to increased pest and disease outbreaks
- Government would save the cost of making a regulation.

## 7.4. Option 4: Co-regulation (allow the AIS Regulation to lapse)

Under Option 4, the AIS Regulation would lapse on 1 September 2024 and co-Regulation would be implemented in response to the change. Further, the regulatory provisions detailed in the base case (section 7.1) would cease to exist and no new regulation would be made in its place.

The AIS Regulation is the main instrument used to achieve the objects of the Act. Allowing the AIS Regulation to lapse would mean that there would be no regulation to support the provisions of the Act. The NSW Government would save the cost of making a regulation and the Electoral Commission would no longer be responsible for conducting committee polls and elections.

The Riverina winegrape businesses could formulate a voluntary code of conduct to provide clarity relating to the provisions of the Act. This voluntary group would also be responsible for the monitoring and enforcement of these rules. Additionally, the voluntary group would need to conduct its own polls and elections.

The NSW Government could provide the following legislative endorsement and support to enforce voluntary codes, there would be a cost to government to provide these:

- Require compliance of voluntary codes of conduct with NSW Government standards
- Detail conditions where standards can be overridden by industry bodies and conditions under which this may occur
- Prescribe codes and standards as either voluntary or mandatory (Australian Government 2007).

### 7.4.1. Impacts, benefits and costs under Option 4

When the AIS Regulation lapses, it is likely that the impacts, benefits and costs to NSW winegrape businesses, and government under this option will be similar to those outlined in Option 3, with the addition of extra costs to the NSW Government.

Winegrape businesses and the NSW government would have to coordinate and agree to provide the following services:

- Contract facilitation
- The provision of information and research and development
- Education and training activities, and
- Promotion activities.

Winegrape businesses and the NSW government would also have to incur additional costs to achieve this. This will require a strong cohesiveness between groups involved in this process.

In the interim where the provision of services is self-regulated, there are likely to be a number of risks and costs to businesses and the government (as detailed in section 7.3.).

For these reasons, Option 4 - co-Regulation - is not preferred to either the base case (Option 1) to remake the AIS Regulation as is or, the draft AIS Regulation 2024 (Option 2).

## 7.5 Summary Case for Option 2 - Make the draft AIS Regulation 2024

In conclusion, making the draft AIS Regulation 2024 (Option 2) under the Act is the preferred option with the highest expected net benefits.

The draft AIS Regulation 2024 is expected to facilitate the operation of the Act by enacting a statutory industry committee to provide services to a defined constituency of agricultural producers. The draft AIS Regulation 2024 is consistent with community expectations regarding the RWG as a service committee, the intention of the NSW Parliament and does not impose an unnecessary regulatory burden on the community.

Option 2 will deliver:

- a modernised AIS Regulation with appropriate amendments to make it an efficient and effective piece of legislation, relative to remaking the AIS Regulation or allowing the Regulation to lapse
- continued services under the draft AIS Regulation
- improved applicability to winegrape growers
- streamlined communications and reduced potential confusion between stakeholders
- improved flexibility regarding a quorum for meetings and reduced costs associated with cancelled meetings (attendees time, inconvenience).

The principal costs are borne by the Riverina winegrape businesses and their continued support for the draft AIS Regulation 2024 is strong evidence that they receive net benefits, that is, that the benefits exceed the costs.

Similarly, the performance of the service functions by the committees benefits the wider community through the promotion of allocative efficiency through the rectification of market failure without imposing any additional costs on the community.