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12 October 2018

Australian Competition & Consumer Commission
Mr David Hatfield
Director, Adjudication, Merger and Authorisation Review Division
David.hatfield@accc.gov.au

Dear Mr Hatfield

Re: Authorisation A91382 AgStewardship Australia Limited

AgStewardship Australia welcomes the opportunity to respond to interested party issues as highlighted in the recent public consultation process undertaken by the ACCC.

The AgStewardship Board is comprised of representatives of all its members, being the National Farmers Federation, CropLife Australia, Animal Medicines Australia and the Veterinary Medicines Distributors Association. In 2017 the Board recognised that the current 4c per litre is no longer adequate to cover the cost of the program's existing operations and a levy of 6 cents per litre would go towards stabilising the program's financial viability and enable some improvements to the existing program.

Agsafe were advised of the AgStewardship Board's proposal to an increase to the levy and were asked to determine what improvements could be made to the program under that levy. Agsafe were then engaged to prepare the Application to the ACCC based on the levy increasing to 6 cents per litre commencing from July 2019.

After reviewing public consultation submissions (prior to draft determination), AgStewardship and Agsafe acknowledge the following issues require further clarification with stakeholders:

- Strategic direction and business model for the drumMUSTER collections and operations based upon the 6 cent litre/kg levy; including service improvements to operations
- ChemClear collection increased frequency of collections of Group 1 (eligible chemical - free service) and the ongoing benefits of facilitating the collections of Group 2 chemicals (non-eligible – direct to user).
- Public reporting of collection figures, trends and constraints and the re-establishment of a drumMUSTER advisory committee to allow for greater stakeholder representation

- Non-participant containers such as IBCs and 110 enviro drums
- Preparations for changes to plastic recycling

AgStewardship and Agsafe have financially and structurally modelled the operations to ensure that the 2 cents per litre increase is enough to achieve the benefits claimed in the application. There are projected funds available to resource the proposed model of the drumMUSTER program. This includes: infrastructure upgrades; expansion of collection points; continued promotion of the programs; community awareness with key stakeholders; and to preparations for emerging trends in the plastics recycling market.

Please see attached paper *Response to Interested Parties' Public Consultation* which outlines the basis for the operating model to allow for the increase of the levy to 6 cents.

Please advise of any further clarifications required by the ACCC. In the first instance can you direct any inquiries to Agsafe's General Manager Dominique Doyle at Dominique.doyle@agsafe.org.au; or telephone 02 6206 6888. I look forward to a favourable draft determination so that the **drumMUSTER** and ChemClear programs can continue to deliver an internationally recognised drum and obsolete chemical collection programs.

Yours sincerely



Bruce Papps
Chair AgStewardship Australia Limited

Enc. *Response to interested parties' public consultation*



ACCC Authorisation A91382

Response to Interested Parties' Public
Consultation

(closed 28 September 2018)

drumMUSTER AND CHEMCLEAR Operations



Based upon increase of levy to 6 cents per litre from 1 July 2019

Summary

AgStewardship has been authorised by the ACCC to collect a voluntary levy on the sale of agricultural chemicals for the purposes of the **drumMUSTER** and ChemClear collection programs. **drumMUSTER** costs of collections operate on a cost recovery model. Agsafe, like AgStewardship, is a not for profit company limited by guarantee, there are no distributions of profits to members.

This document is in response to public submissions received by the ACCC regarding the proposed reauthorization and increase of the levy to 6 cents per liter. The following contains the details of how Agsafe will deliver the **drumMUSTER** and ChemClear collection programs commencing July 2019. The **drumMUSTER** and ChemClear collection programs are widely regarded as world leading drum recycling and unwanted chemical disposal stewardship programs, as evidenced by Agsafe being named as a finalist in the international Agrow Awards 2015 for 'Best Stewardship Program'.

An increased levy will support improvements to infrastructure to fill identified gaps in the network of collection sites, especially in remote regions, as well as improve collection site safety (especially for ChemClear collection points) and allow the segregation of collected products by type to facilitate processing. It is envisaged that **drumMUSTER** will be able to collect a wider range of plastic containers, which will encourage manufacturers to invest in new packaging technologies that improve re-use and recycling. More frequent ChemClear collections will encourage the prompt disposal of hazardous chemicals, thereby reducing on-farm stock-piling and other unsafe storage and disposal practices.

In addition to the continued operations of the programs, Agsafe has planned for expansion of the program based on the proposed 6 cents per kg/litre container levy and enable the following:

- Identifying gaps in collection areas, reviewing collection locations for gaps in the service to ensure accessibility and increase collection rates
- Enabling real-time capture of collection data by development of a cloud-based phone app that will be used by collection agents when containers are accepted, thus improving Agsafe's reporting and ability to coordinate container collections more efficiently
- Enhance security and useful life of container cages; expanding collections into more remote areas
- Increase ChemClear frequency of collections (currently holding two collections per year, will increase to three collections per year)
- Expand marketing and communications to key stakeholder farming organisations as well as rural communities and distribution of school resources
- Enhance website and back end database to improve communications, marketing and tracking
- Enhance manufacturing liaison
- Enhance Agsafe's management of major issues including compliance breaches (e.g. EPA being called to sites with **drumMUSTER** storage)
- Renegotiate agreements with all major stakeholders

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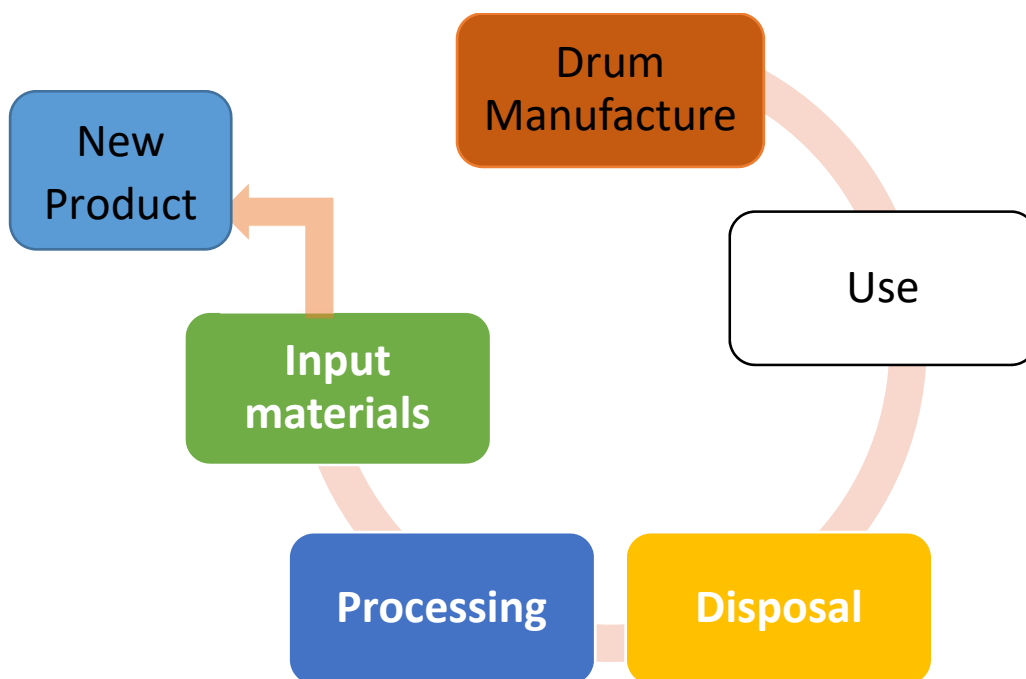
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Program Operations

drumMUSTER provides an easy, environmentally-friendly way of disposing of empty farming chemical containers across rural Australia. The first **drumMUSTER** collection was held at Gunnedah in May 1999. **drumMUSTER** and ChemClear are voluntary programs of are funded by levies collected by AgStewardship, which was established to develop stewardship programs for Australia's agriculture sector. AgStewardship contracts Agsafe Limited to deliver the **drumMUSTER** and ChemClear programs.

drumMUSTER targets the end-of-life treatment of containers for these chemicals, and manages disposal, processing and development of new inputs for other manufactured products.

Figure 1: Product Life-Cycle operation of drumMUSTER container



drumMUSTER Operations

The scope of the **drumMUSTER** program is shown in Table 1

Table 1: Scope of drumMUSTER program

drumMUSTER undertakes recycling of empty agricultural chemical containers	
Class of Products	
<p style="text-align: center;"><i>Within scope</i></p> <p>Non-returnable metal or plastic containers above one litre/kilogram and up to 205 litre/ kilogram in declared content in the packaging of crop production and animal health products used for:</p> <ul style="list-style-type: none"> • agricultural and livestock production • industrial and recreational pest and weed control • forestry • household pest control operations or • similar activities conducted by government authorities <p>Participating manufacturers are identified by the inclusion of the eligible drumMUSTER container logo on their eligible containers. The logo can be displayed on the chemical label, embossed into the container wall or applied as a sticker to the container</p>	<p style="text-align: center;"><i>Outside scope</i></p> <p>Containers which have been used to store any hazardous chemicals other than those listed.</p> <p>Bulk containers.</p> <p>Containers not displaying the drumMUSTER logo.</p> <p>Containers which still hold chemical residue (may be resubmitted after cleaning).</p> <p>Containers which still have the cap on (may be resubmitted once cap has been removed and thread cleaned).</p> <p>Containers missing labels.</p>

Eligible hazardous chemicals include: insecticides, nematicides, plant growth regulators, fungicides, miticides, animal health products, seed dressings, rodenticides, paracitocides, internal & external, defoliant, antihelminthics, herbicides, lousicides and vaccines.

Eligible non-hazardous chemicals include: surfactants, wetting agents, adjuvants, spreaders, stickers, foam markers, spray markers, dye, spray oils, liquid fertilisers, dairy detergents, farm disinfectants, teat dip, animal nutrition products, udder wash.

Manufacturing Liaison – engagement with non-participants

While there are manufacturing companies not participating in the drumMUSTER program, these containers may still be delivered by drumMUSTER collection sites. To ensure access to the program and remove confusion for primary producers, these containers (which have not had a levy paid) are still included in drumMUSTER collections. Agsafe have an operational policy to include these non-eligible containers (up to 7%) in collections. Agsafe actively liaises with these companies and they are encouraged to become participant companies.

Recycling After Collection

After containers have been delivered and inspected through the **drumMUSTER** process they are collected by Agsafe's approved processors. The plastic containers are either shredded, granulated or heat-extruded back to a resin suitable for plastics component production. These extruded materials

are manufactured into a new range of products that you see in the community every day. Some of the products **drumMUSTER** recycled materials go into producing include wheelie bins, fence posts, irrigation pipes, bollards and bar stools (Concrete Supports)

The metal containers are recycled through the normal metal recycling process.

The use of recycled materials into new products not only means that fewer containers are going into landfill, but it also means that less virgin materials are being produced into plastic or metal items. This all helps to conserve natural resources and lowers Australia's carbon emissions.

drumMUSTER outcomes

Cumulative statistics from **drumMUSTER** are shown in Table 2.

Table 2: Key statistics

Agvet chemical containers collected since program inception in May 1999	32,461,754
Total tonnes saved from landfill	- 37,187 tonnes
Active drumMUSTER collection sites across Australia	- 813
Total number of participating local councils	- 355
Total number of participating agencies providing collection services	- 490
Total number of active drumMUSTER inspectors across Australia	- 2,177
Total number of trained drumMUSTER inspectors across Australia	- 8,228
Infrastructure spend since program inception on all 813 collection sites	- \$3.1 million
Total number of nationwide drumMUSTER collections	- 54,629
Total number of approved drumMUSTER processors	- 24

drumMUSTER has been operating in its current format since 1999. The first targets for the Industry Waste Reduction Scheme were set under the IWRS MOU with participant companies in 1998 which were the percentage targets. In the mid 2000's the targets were changed by the Committee to a drum return target set by Avcare in 2006,¹ and aimed to reduce weight of primary containers 1kg or 1 litre or more in size entering the environment by 68%, compared to a benchmark year of 1990. In practice, the benchmark year is 1991 as this was the first year CropLife's antecedent, Avcare, audited its members' container use.² The 2005 audit found that there had been a reduction of 61.3%, or 6,609 tonnes, in notional packaging waste.³ At that date, the performance by State ranged from 16.2% in Tasmania to 41.2% in Western Australia.⁴

A second review of the operations of **drumMUSTER** in 2008 found that there was potential for 2 million empty Agvet chemical containers (20 litre equivalents) to be disposed of each year through cleaning and use for other purposes (e.g. floats, storage containers and tree guards), cleaning and disposal to licensed landfill, burial in unlicensed locations, dumping with potential dispersal by flooding, and burning (for plastics).⁵ The operation of the program at the time was estimated to have a gross value

¹ McGuffog & Co Pty Ltd (2005): *Container Usage Audit of drumMUSTER Participants 2005*.

² *Ibid*, page 9

³ *Ibid*, page 10, Table 15

⁴ *Ibid*, page 12, Figure 5

⁵ URS (2008): *Review of the Industry Waste Reduction Scheme drumMUSTER and ChemClear programs*, 5 March 2008

of \$1.8m to \$2m per year, comprised of savings in landfill space of \$110 to \$125 per tonne and value of recycled materials of \$800 to \$1000 per tonne (for plastics).⁶

Audit and collection data over the current authorization period shows both increase program use, processing costs, expanding recycling activity and increased container diversity.⁷ Since the previous survey, the volume of sales of chemical containers has increased by 38% and deliveries of liquid products in returnable containers has increased by 79%.

Up to September 2018, **drumMUSTER** has collected 32,461,754 containers, of which 1,851,331 were collected in 2017-18 (that is, 92% of the 2 million target). These are currently estimated to be approximately half of the total eligible hazardous drums manufactured annually in Australia.

The 2016-17 survey estimated that changes in formulation technology, packaging and distribution, together with the **drumMUSTER** scheme, resulted in a total 71% reduction in packaging that would otherwise end up in landfill.⁸ Taking into account market growth, if the industry had not adopted the use of returnable container distribution systems and there had been no change in formulation technology, the notional weight of packaging that would have been generated in 2016-17 is calculated at 16,889 tonnes.⁹

Table 3: Outcomes of drumMUSTER to 2017-18 (as at September 2018)

Location	Containers		
	Since program began	2017-18	2018-19 YTD
NSW	9,787,674	553,143	101,174
Victoria	6,314,877	377,024	50,627
Queensland	6,203,853	442,434	77,655
SA	4,578,996	293,049	53,279
WA	4,846,363	393,841	39,412
Tasmania	558,184	42,607	4,918
ACT	24,174	2,148	0
NT	144,471	11,039	3,365
National	32,461,754	1,851,331*	330,430

Source: **drumMUSTER** audits

* 8% less than target, is expected achieve the 2,000,000-container target once all collection reports have been collated.

This lag is due to collection agencies' delayed submissions of reports.

⁶ *Ibid*, page 12

⁷ McGuffog & Co Pty Ltd (2018): **drumMUSTER** Container Usage Survey 2016-17.

⁸ *Ibid* page III

⁹ *Ibid*, page 11

Issues Arising

The **drumMUSTER** program collection data and recent surveys, as well as the recent stakeholder engagements during June to September 2018 reveal a range of issues that AgStewardship and Agsafe need to address to ensure the future viability of the program.

IBCs and 110 enviro drums

drumMUSTER participant companies do not collect the levy on IBC's or other returnable drums – there are pathways for responsible disposal of these containers through the drum manufacturers directly (rather than the chemical manufacturers). For example, Schutz have a returnable program where they will pick up Schutz branded IBC and drums direct from the primary producer. Agsafe will be working with these returnable programs to raise then awareness of drum return programs in rural communities. Agsafe will also liaise with CropLife Australia and reseller networks to ensure a broader awareness of the returnable programs.

Other non-returnable IBCs are entering the market place (non-participant companies), and this is becoming a significant concern to farmer bodies and local government associations alike, as there are no clear pathways for the responsible disposal of these containers. A significant proportion of these containers are sourced directly from South East Asia by the end user or the manufacturer of the generic product, and therefore are not part of the reseller networks or drumMUSTER participant companies. Agsafe will continue to liaise with CropLife Australia, resellers and farming groups alike, raise awareness of this issue and encourage end users to only source products from participant companies and or companies that have a returnable programs.

To note, the proposed levy increase to 6 cent per litre does not allow for these drums to be included the levy program, as the \$60 levy (that would be applicable to a 1,000 litre IBC) would not cover the recycling costs of these containers (estimated to be between \$200 and \$250 per IBC).

AgStewardship and Agsafe are aware of the increasing stockpiles of IBCs on farms and in reseller compounds. There will be continued investigation into this issue, and a proposal will be developed with a possible introduction of a separate program to address this for the future.

This is not included in current operations as this is not able to be funded within the Levy income limitations.

R&D funds are required to enable Agsafe to conduct research inclusion of IBCs into the program.

Proposed **drumMUSTER** Advisory Committee

From 1998 to 2008 Agsafe facilitated a **drumMUSTER** Advisory Committee to ensure participant representation, which included farmer groups, local government association representatives and manufacturers. In 2008, when AgStewardship was established as the holder of the ACCC authorised levy, this Committee was disbanded, as these groups were all represented on the board of AgStewardship.

It has become apparent during the recent stakeholder engagements, that state and industry-based associations (both rural and local governments) require more engagement with the programs. It is proposed that an advisory committee be re-established and report directly to AgStewardship board. The membership and the frequency of meetings are yet to be determined.

Agsafe anticipate establishing the Committee supported by AgStewardship Australia.

Addressing Program Threats

Agsafe is assessing threats to **drumMUSTER** continually. However, there are concerns that some issues may arise which may threaten the existence of the program, for example, recent closure of the Chinese market to foreign waste (the 'China Sword').

In the next five years AgStewardship and Agsafe will need to examine emerging trends that are occurring in the environment for recycling. These emerging trends are being driven by changes in the market for recycled materials, pricing pressures on recycled materials, decisions by governments federal and state to regulate waste management and recycling. The expected trends of plastics in both landfill (anticipated target of 100% of Australian packaging being recyclable, compostable or reusable by 2025) and for recycling, changes in the types of plastics that are being used in the manufacture of agvet chemical containers which may affect program in the future.

Researching the impact of the changing plastics recycling sector and preparing for the changes may include, but are not limited to recycling challenges for processors including:

- HDPE (majority of containers) - processors are 'geared' for the processing of these plastics
- Mixed polymers – use of these in containers may impact upon processing operations which may impact upon downstream processing costs or dual processing

R&D funds are required to enable Agsafe to conduct research into recyclability of new materials and their inclusion in the program.

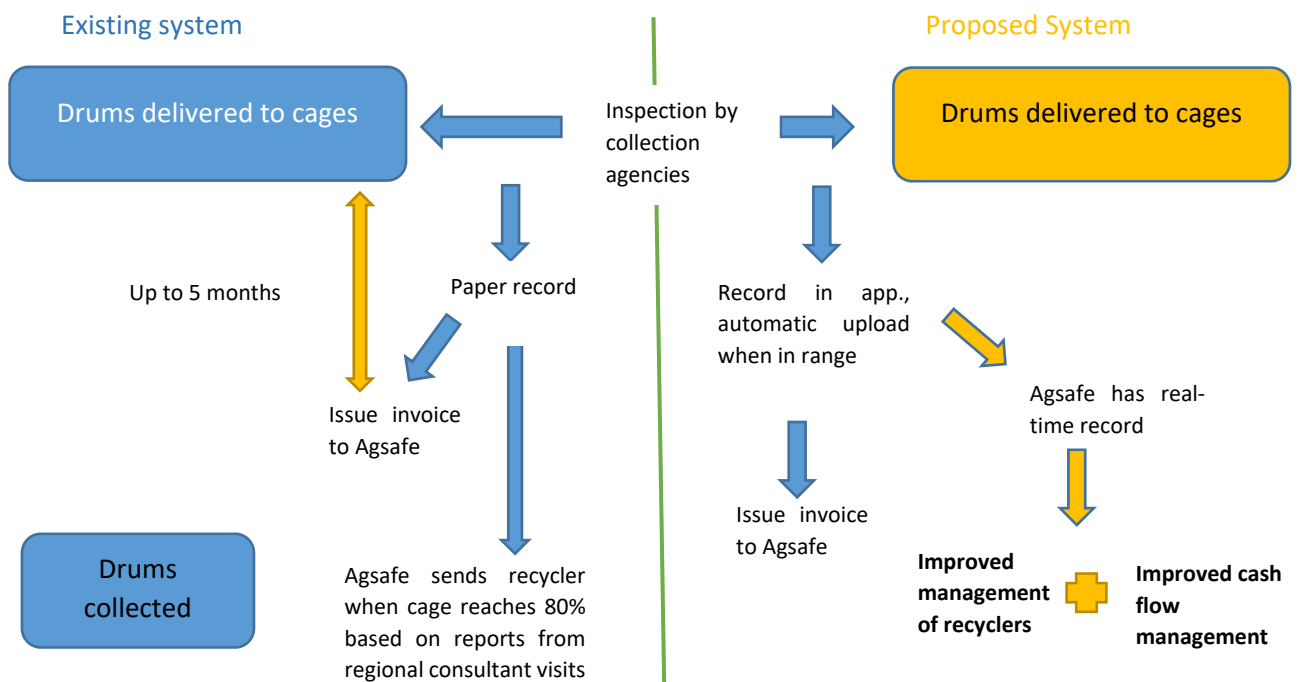
Collection tracking and reporting

drumMUSTER drum collection numbers have been historically reported to AgStewardship as at when they enter collection cages during the financial year. Due to the time lag between the physical receipt of drums by collection agencies and their reports to Agsafe (by way of invoice for the collection), there are inaccuracies in the actual drum collection numbers at any one point in time.

The reliance of Agsafe on internal invoicing processes in collection agencies has consistently resulted in a time lag of 5 months (and up to 2 years) between the physical collection and the recording of that collection. This is of particular concern to Agsafe when determining the end of financial year drum collection position, as we either have to wait for 5 months before having any confidence in the accuracy of the actual numbers of drums collected, or estimate an amount of *collected but unrecorded* drums to accrue.

Agsafe proposes developing a real-time drum receipt cloud-based application which can be provided free of charge to collection agents and Councils and will enable Agsafe to keep track in real time of drums entering cages, rather than waiting for collection agents to lodge paperwork and invoices (Figure 2). Agsafe will also address lags in issuing invoices through the revised agreement with collection agencies. Development of the application will be funded early in the next Agreement period.

Figure 2: Proposed changes in the collection receipt and reporting



Real-time data collection will allow **drumMUSTER** to keep accurate and up to date records of the number of containers in cages, and only notify processors to collect containers when cages reach the 80% trigger point. This in turn will reduce transport costs and provide greater efficiency.

Enhancing security of cages

Agsafe has funded construction of container cages by collection agents around Australia. The value of this infrastructure spend over the life of the program is \$3.1 million and there has been no provision in previous budgets for improvements/maintenance and a significant proportion of cages are reaching 20 years of age. These cages vary in quality, but limited funds meant that they are not always secure and many allow uncleaned containers to be included to the collections by throwing them over the cage perimeter. Agsafe plans to upgrade all cages with wire roofs to increase security and prevent unauthorised additions of unclean or ineligible containers.

Infrastructure Costs Forecast 2019-2021 (3 years)

	Construction	Maintenance	Security	Signs	Upgrade
NSW	80,000	2,000	1,000	1,500	8,000
QLD	60,000	2,000	500	1,500	8,000
VIC	40,000	2,000	500	1,500	12,000
WA	50,000	2,000	1,000	1,500	8,000
SA	20,000	2,000	500	1,500	8,000
TAS	5,000	500	300	500	2,000
NT	1,500	500	100	500	-
Total	256,500	11,000	3,900	8,500	46,000
Other Projects					274,100
Total Infrastructure Costs for the 3 years:					600,000

Increasing Container Collections

Agsafe had conducted a needs analysis and identified gaps in collection points across Australia, particularly in remote areas. Upon confirmation of the levy increase, further work will be undertaken ensure that all primary producers have access to container collections. Where local council collection points are not accessible, we will engage with local community groups to conduct 'pop-up' collection days in conjunction with the local AgVet chemical retailers. The opportunity for the local community to raise funds within the community is a model that Agsafe already facilitates across Australia. Over 130 community organisations operate collections across Australia and have raised well over \$1,000,000 since inception. Combining this model with the Retail networks that Agsafe is already participating with (over 1200 retailers as members across Australia); we will work to ensure that accessibility of collections points meet the needs of primary producers.

Increasing ChemClear collections

Agsafe sees an opportunity to enhance the collection of chemicals through the ChemClear program. The forward budget contains a provision for a 15,000 L/kg increase per annum over the life of the agreement. This will be achieved by triennial ChemClear collections in all States and Territories.

ChemClear Operations

Year	Collection Costs \$	Group 1 litres	Group 2 litres	States
2014	340,366	25,275	13,643	SA Tas
2015	488,030	31,966	34,691	NSW Qld
2016	450,368	30,606	19,629	WA Vic
2017	359,855	22,805	28,283	NSW Tas
2018	402,930	28,274	26,204	Qld Vic SA
2019	595,140	40,000	25,000	SA WA NSW
2020	620,000	40,000	25,000	Vic Qld Tas
2021	640,000	40,000	25,000	WA NT NSW
2022	660,000	40,000	25,000	Qld Vic SA

Website and database

The **drumMUSTER** database that is used by people in the field was coded for Internet Explorer at the inception of the program. Internet Explorer is no longer being supported by Microsoft, which has transferred its efforts to Edge for Windows 10. The code which supports the IE version of the database is not readable by other browsers so there is a need to re-code this for other platforms including mobile and tablet formats.

The opportunity will be taken to enhance the User Interface for the database and to refresh the **drumMUSTER** website including building an up to date image database.

Key Features of the program going forward

Reporting

Agsafe will provide reports to AgStewardship containing at least, but not limited to, the following information:

1. Detailed collection data for drums and chemical by State, with comparisons to previous years
2. Collection costs performance against estimates
3. Issues arising and recommendations for action
4. Marketing activity and results
5. WHS reports
6. Campaigns scheduled
7. Annual reconciliation of collections (Clause 3.2 of current Agreement)

Agsafe personnel will also present to the AgStewardship Board as required and facilitate the drumMUSTER Advisory Committee.

Levy Collection

AgStewardship will continue to be responsible for levy collection. Agsafe will be funded to identify and sign up new participants, monitoring containers potentially entering into the scheme, and managing and acquitting levy funds. The budget has been developed based on an increase in the levy collected to 6 cents per unit.

The rationale for the proposal is to increase the **drumMUSTER** participation fee to 6c per unit to enable Agsafe to:

- Increase marketing of the program to lift returns of drums to 58% from the current 48%
- Increase ChemClear collections by 15,000L pa over the life of the program
- Ensure infrastructure at collection sites meets the needs of the program, including expansion of sites
- Increased ability of Agsafe to deal with collection issues e.g. EPA events
- Allow for AgStewardship and Agsafe to respond to emerging issues and stakeholder engagement to ensure the continued support of the programs

AGSTEWARDSHIP AUSTRALIA BUDGET - 2018/19 and forward outlook based on 6 cent levy

	<i>Notes</i>	2018/19 budget	2019/20 forecast	2020/21 forecast	2021/22 forecast
INCOME					
DrumMuster levies	1	3,100,000	4,850,000	4,950,000	4,950,000
Interest and other		50,000	50,000	50,000	50,000
Total income		3,150,000	4,900,000	5,000,000	5,000,000
EXPENDITURE					
Program expenses	2	3,955,916	4,325,000	4,477,100	4,584,263
Projects and program improvement	3	70,000	275,000	225,000	225,000
Administrative and other expenses	4	188,000	234,500	240,200	246,071
Total expenditure		4,213,916	4,834,500	4,942,300	5,055,334
Surplus/(Deficit)		-1,063,916	65,500	57,700	-55,334

Notes

- 2018/19 budget assumes a levy of \$0.04 per litre/kg. Forecasts assume a levy of \$0.06.
Budget for 2018/19 assumes current seasonal downturns will continue.
Forecasts are based on extrapolation of 3 year averages up until 2017.
- Program expenses include all collection and associated costs including compliance. Forecast numbers include increases for renegotiation of contracts with contractors and local government.
- Forecasts include allowances for infrastructure improvement, R&D and stakeholder engagement.
- Forecasts allow for increased executive support for establishment of Advisory Committee.