



FOOD STANDARDS
Australia New Zealand
Te Mana Kounga Kai – Ahitereiria me Aotearoa

4-05
25 May 2005

INITIAL ASSESSMENT REPORT

APPLICATION A512

DEFINITION OF MEAT PIES

DEADLINE FOR PUBLIC SUBMISSIONS: 6pm (Canberra time) 6 July 2005

SUBMISSIONS RECEIVED AFTER THIS DEADLINE

WILL NOT BE CONSIDERED

(See 'Invitation for Public Submissions' for details)

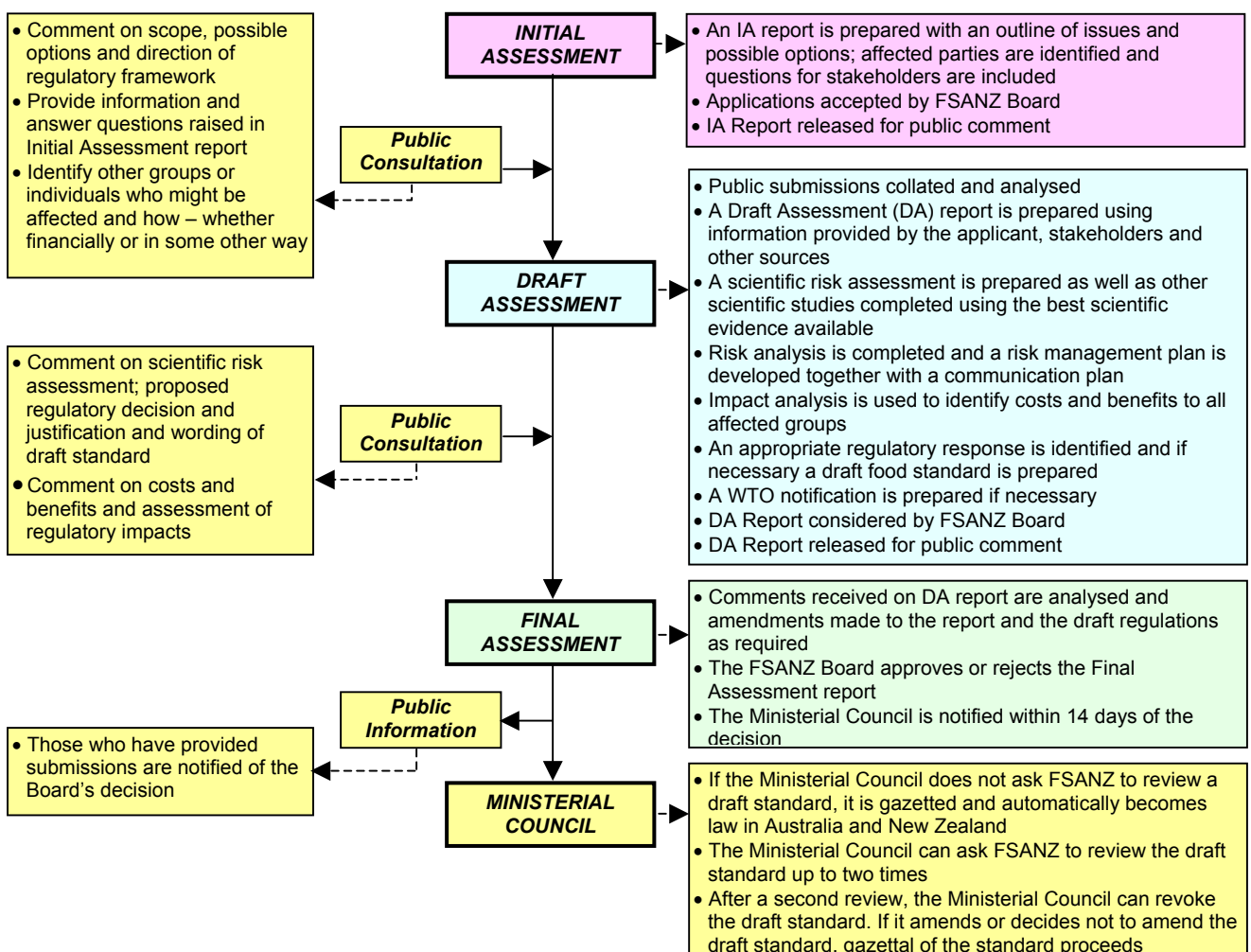
FOOD STANDARDS AUSTRALIA NEW ZEALAND (FSANZ)

FSANZ's role is to protect the health and safety of people in Australia and New Zealand through the maintenance of a safe food supply. FSANZ is a partnership between ten Governments: the Australian Government; Australian States and Territories; and New Zealand. It is a statutory authority under Commonwealth law and is an independent, expert body.

FSANZ is responsible for developing, varying and reviewing standards and for developing codes of conduct with industry for food available in Australia and New Zealand covering labelling, composition and contaminants. In Australia, FSANZ also develops food standards for food safety, maximum residue limits, primary production and processing and a range of other functions including the coordination of national food surveillance and recall systems, conducting research and assessing policies about imported food.

The FSANZ Board approves new standards or variations to food standards in accordance with policy guidelines set by the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) made up of Australian Government, State and Territory and New Zealand Health Ministers as lead Ministers, with representation from other portfolios. Approved standards are then notified to the Ministerial Council. The Ministerial Council may then request that FSANZ review a proposed or existing standard. If the Ministerial Council does not request that FSANZ review the draft standard, or amends a draft standard, the standard is adopted by reference under the food laws of the Australian Government, States, Territories and New Zealand. The Ministerial Council can, independently of a notification from FSANZ, request that FSANZ review a standard.

The process for amending the *Australia New Zealand Food Standards Code* is prescribed in the *Food Standards Australia New Zealand Act 1991* (FSANZ Act). The diagram below represents the different stages in the process including when periods of public consultation occur. This process varies for matters that are urgent or minor in significance or complexity.



INVITATION FOR PUBLIC SUBMISSIONS

FSANZ has prepared an Initial Assessment Report of Application A512, which includes the identification and discussion of the key issues.

FSANZ invites public comment on this Initial Assessment Report for the purpose of preparing an amendment to the Code for approval by the FSANZ Board.

Written submissions are invited from interested individuals and organisations to assist FSANZ in preparing the Draft Assessment for this Application. Submissions should, where possible, address the objectives of FSANZ as set out in section 10 of the FSANZ Act. Information providing details of potential costs and benefits of the proposed change to the Code from stakeholders is highly desirable. Claims made in submissions should be supported wherever possible by referencing or including relevant studies, research findings, trials, surveys etc. Technical information should be in sufficient detail to allow independent scientific assessment.

The processes of FSANZ are open to public scrutiny, and any submissions received will ordinarily be placed on the public register of FSANZ and made available for inspection. If you wish any information contained in a submission to remain confidential to FSANZ, you should clearly identify the sensitive information and provide justification for treating it as commercial-in-confidence. Section 39 of the FSANZ Act requires FSANZ to treat in-confidence, trade secrets relating to food and any other information relating to food, the commercial value of which would be, or could reasonably be expected to be, destroyed or diminished by disclosure.

Submissions must be made in writing and should clearly be marked with the word 'Submission' and quote the correct project number and name. Submissions may be sent to one of the following addresses:

Food Standards Australia New Zealand
PO Box 7186
Canberra BC ACT 2610
AUSTRALIA
Tel (02) 6271 2222
www.foodstandards.gov.au

Food Standards Australia New Zealand
PO Box 10559
The Terrace WELLINGTON 6036
NEW ZEALAND
Tel (04) 473 9942
www.foodstandards.govt.nz

Submissions need to be received by FSANZ by 6pm (Canberra time) 6 July 2005.

Submissions received after this date will not be considered, unless agreement for an extension has been given prior to this closing date. Agreement to an extension of time will only be given if extraordinary circumstances warrant an extension to the submission period. Any agreed extension will be notified on the FSANZ Website and will apply to all submitters.

While FSANZ accepts submissions in hard copy to our offices, it is more convenient and quicker to receive submissions electronically through the FSANZ website using the Standards Development tab and then through Documents for Public Comment. Questions relating to making submissions or the application process can be directed to the Standards Management Officer at the above address or by emailing slo@foodstandards.gov.au.

Assessment reports are available for viewing and downloading from the FSANZ website. Alternatively, requests for paper copies of reports or other general inquiries can be directed to FSANZ's Information Officer at either of the above addresses or by emailing info@foodstandards.gov.au.

CONTENTS

EXECUTIVE SUMMARY	6
1. INTRODUCTION.....	8
2. REGULATORY PROBLEM.....	8
2.1 CURRENT STANDARD.....	8
2.2 REGULATORY PROBLEM	9
3. OBJECTIVE	9
4. BACKGROUND	10
4.1 HISTORICAL SITUATION	10
4.2 REVIEW OBJECTIVES.....	11
5. RELEVANT ISSUES	12
5.1 MEAT DESCRIPTION	12
5.2 LABELLING ISSUES.....	12
5.3 OVERSEAS REGULATORY STATUS.....	13
6. REGULATORY OPTIONS.....	13
7. IMPACT ANALYSIS	13
7.1 AFFECTED PARTIES.....	13
8. CONSULTATION	14
8.1 PUBLIC CONSULTATION	14
8.2 WORLD TRADE ORGANIZATION (WTO) NOTIFICATION	14
9. CONCLUSION AND RECOMMENDATION	15

Executive Summary

Bakewell Foods Pty Ltd, now trading as Mrs Mac's Pty Ltd, lodged an Application with FSANZ on 3 September 2003 to vary the requirements to Division 1 – Interpretation of Standard 2.2.1 – Meat and Meat Products of the Code relating to the definition of meat pie. The Applicant also seeks to include compositional requirements for meat pies.

Work on this Application commenced in the 1st quarter of 2005, in line with FSANZ's Work Plan.

This Initial Assessment Report is not a detailed assessment of this Application, but rather an assessment of whether the Application should be accepted for further consideration, according to criteria laid down in the section 13 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act).

The Applicant asks for changes to the definition to ensure that meat pies only contain 'meat flesh' as defined in Division 1 of the Standard and not just 'meat'. The definition the Applicant has requested would read as follows:

'Meat pies means a pie containing meat flesh. A pie may also contain a significant quantity of other foods, for example – vegetables, cheese etc. in which case it is not covered under this definition.'

The Applicant also requests changes to the Standard in Division 2 – Compositional requirements as follows (including an Editorial note):

A meat pie must contain:

- (a) no less than 250 g/kg of meat flesh; and
- (b) the species of animal from which the meat is derived must be identified in the ingredients list.

Editorial Note:

Industry practice generally limits meat to beef or mutton unless otherwise specified. Species clarification will make the information clear to consumers and instil confidence in the product and the industry generally.

The present definition in the Standard for a meat pie is:

meat pie means a pie containing no less than 250 g/kg of meat.

The Applicant considers that the proposed variations would enhance the reputation of the meat pie manufacturing industry with consumers and believes it is consistent with objectives of the FSANZ Act, specifically the provision of adequate information relating to food to enable consumers to make informed choices, and the prevention of misleading or deceptive conduct.

The Applicant contends that there would be no negative impact as a result of the proposed changes nor any negative dietary impact. The Applicant stated from their own internal research that consumers had concerns with the content of meat pies and that there would be little consequence to margins, competition, and employment from this Application.

It is recommended that the Application proceed to Draft Assessment for further consideration, so FSANZ now seeks submissions to assist its assessment.

1. Introduction

Bakewell Foods Pty Ltd, now trading as Mrs Mac's Pty Ltd, lodged an Application with FSANZ on 3 September 2003 to vary the requirements to Division 1 - Interpretation of Standard 2.2.1 – Meat and Meat Products of the Code. The Applicant has requested that the definition of meat pie be amended to read:

‘Meat pies means a pie containing meat flesh. A pie may also contain a significant quantity of other foods, for example – vegetables, cheese etc in which case it is not covered under this definition.’

The Applicant also wishes to vary Division 2 – Compositional requirements to include a new clause and linked Editorial note, Clause 4 – Composition of a Meat Pie to provide meat pie compositional requirements.

In its Application, Mrs Mac's Pty Ltd states that by varying the Standard this will ensure meat pies only contain meat flesh and will enhance the quality of the product by preventing manufacturers from including ingredients in a fraudulent or deceptive way, generally not acceptable to the public. The Applicant states that it will also promote fair trading in meat pies and protect industry from unsubstantiated claims about poor practices.

2. Regulatory Problem

2.1 Current Standard

Standard 2.2.1 – Meat and Meat Products of the Code includes definitions, compositional and labelling requirements for meat and meat products.

The following definitions are provided by Standard 2.2.1 – Division 1 - Interpretation.

meat means the whole or part of the carcass of any buffalo, camel, cattle, deer, goat, hare, pig, poultry, rabbit or sheep, slaughtered other than in a wild state, but does not include –

- (a) the whole or part of the carcass of any other animal unless permitted for human consumption under a law of a State, Territory or New Zealand; or
- (b) avian eggs, or foetuses or part of foetuses.

meat flesh means the skeletal muscle of any slaughtered animal, and any attached -

- (a) animal rind; and
- (b) fat; and
- (c) connective tissue; and
- (d) nerve; and
- (e) blood; and
- (f) blood vessels; and
- (g) skin, in the case of poultry.

meat pie means a pie containing no less than 250 g/kg of meat.

There are no compositional requirements for ‘Meat Pies’ in Division 2 of Standard 2.2.1.

2.2 Regulatory Problem

The Applicant believes that the present standard relating to the definition of meat pies does not ensure that pies of a sufficient quality are reaching the consumer and that insufficient labelling of the composition of the meat pie leads to misinformation and subsequently lowers the reputation of the baking industry.

The Applicant states that under the definition of meat pie the word ‘meat’ should be substituted with the term ‘meat flesh’ and would overcome any doubt as to the content of meat pies that is allowed to prevail under the existing standards.

Also the Applicant wishes to vary Division 2 – Compositional Requirements to include a new clause and linked Editorial note, clause 4 – Composition of a meat pie to read:

A meat pie must contain:

- (a) no less than 250 g/kg of meat flesh; and
- (b) the species of animal from which the meat is derived must be identified in the ingredients list.

Editorial note:

Industry practice generally limits meat to beef or mutton unless otherwise specified. Species clarification will make the information clear to consumers and instil confidence in the product and the industry generally.

The Applicant claims this would ensure fair trading in meat pies, protecting industry from unsubstantiated claims of poor practices and providing more information to enable consumers to make better informed choices.

The Applicant claims making the proposed amendments is consistent with the section 10 objectives of the FSANZ Act, specifically the provision of adequate information relating to food to enable consumers to make informed choices, and the prevention of misleading or deceptive conduct.

3. Objective

The objective of this assessment is to determine whether it is appropriate to amend the Code to amend the definition and to incorporate the compositional requirements for meat pies that the Applicant has requested.

In developing or varying a food standard, FSANZ is required by its legislation to meet three primary objectives, which are set out in section 10 of the FSANZ Act. These are:

- the protection of public health and safety;
- the provision of adequate information relating to food to enable consumers to make informed choices; and

- the prevention of misleading or deceptive conduct.

In developing and varying standards, FSANZ must also have regard to:

- the need for standards to be based on risk analysis using the best available scientific evidence;
- the promotion of consistency between domestic and international food standards;
- the desirability of an efficient and internationally competitive food industry;
- the promotion of fair trading in food; and
- any written policy guidelines formulated by the Ministerial Council.

4. Background

4.1 Historical Situation

Standard C4 – Meat Pie and Meat and Vegetable Pie in the former Australian *Food Standards Code* contained requirements relating to meat pie composition. Relevant compositional requirements in the former Standard are listed below.

- (1) A meat pie that weighs less than 70 g shall contain not less than 250 g/kg of meat.
- (2) A meat and vegetable pie shall contain:
 - (a) not less than 125 g/kg of meat; and
 - (b) not less than 250 g/kg of total meat and vegetables.
- (3) Meat in a meat pie shall not contain more than 333 g/kg of fat.

Regulation 71 – Meat pies in the former *New Zealand Food Regulations 1984* (NZFR), provided compositional regulations for meat pies in New Zealand. This regulation detailed the requirements for the filling, not the pie as a whole. The former requirements in NZFR were that the weight of the filling shall not be less than 35% of the weight of the pie, and the ingoing meat content of the filling shall be at least 70% of the weight of the filling.

The Review Proposal P191 – Meat And Meat Products (including Poultry & Game) was used to establish the current Standard 2.2.1. This Proposal reviewed Standard C4 of the Australian *Food Standards Code* as well as Regulation 71 within the NZFR. The Proposal established the definitions of meat, meat flesh and meat pies within Standard 2.2.1, amongst many other matters, and sought and received submissions on the proposed new Standard. The Inquiry Report (completed after two rounds of submissions on the proposed new Standard) and with input from the review team, made a number of conclusions and produced a draft Standard. Standard 2.2.1 was gazetted on December 2000.

In the Inquiry Report for Proposal P191 (within Part E – Meat pies and meat and vegetable pies), it was stated that submissions clearly demanded a requirement to ensure minimum meat content in meat pies.

This was from stakeholders that included consumers, enforcement agencies and industry. One industry submission noted that the negative media attention on the debate about removing this requirement had a negative impact on their sales. Proposal P191 also stated that manufacturers of meat pies may be negatively affected if the minimum requirement for meat in a meat pie was removed.

The outcome of Proposal P191 was Standard 2.2.1, which retains the former requirement for a minimum 25% meat content in meat pies (in the total pie including the pastry), to maintain the standard of identity for meat pies manufactured and sold in Australia and New Zealand

Standard 1.2.1 requires the proportions of the characterising ingredients to be declared on the label as percentages. Thus the proportion of apple in apple pie, and vegetables in curried vegetable pie will need to be declared as a percentage. In the case of a chicken and vegetable pie the percentage of chicken and vegetable would need to be declared.

Historically, meat was listed as a class name in the Australian *Food Standards Code* and this provision was retained when the joint Code was established in December 2000. Therefore, when included as an ingredient in food, the presence of meat can be declared by the class name 'meat', in an ingredient list. However, it is not mandatory to use the class name meat. An appropriate designation such as beef, lamb, pork or chicken could also be used. This was further outlined in Proposal P143 - Ingredient Labelling; Proposal P156 - The Naming of Foods and Proposal P163 - Representational Issues: Specific Compositional Declarations, which require that food be suitably named and that the origin, source or species of a food would need to be declared if its omission would be false, misleading or deceptive.

4.2 Review Objectives

The Authority considered the former regulations relevant to meat pies in the Australian *Food Standards Code* and the NZFR as well as the section 10 objectives of the FSANZ Act to establish the provisions of Standard 2.2.1 – Meat and Meat Products. The Authority also developed policy principles in its review of food standards.

The general policy principles behind the review of food standards were to:

- reduce the level of prescriptiveness of standards to provide wider permissions on the use of a range of ingredients and additives to facilitate innovation, where possible, but with attention paid to a possible consequential increase in consumers' informational needs;
- replace standards which regulate individual foods with standards which apply across all foods or a range of foods, where appropriate;
- develop definitional standards in appropriate cases for foods, describing their main definitional qualities to provide a benchmark for industry and consumers;
- retain standards regulating requirements for individual foods only if consistent with the objectives, and where such standards are retained, redrafting them in a tabular format (rather than the current list format) to provide greater ease in reading and understanding and facilitate simpler amendment as required; and

- redraft standards to facilitate greater ease in reading and understanding, and to make amendment more straightforward.

In addition to these broader principles, some specific objectives applied to the review of the food commodity standards. The first of these was to take account of the changes in our food supply over the last twenty years and develop regulatory requirements that reduce the regulatory burden on the food industry. This is intended to encourage greater innovation within the marketplace.

A second objective of the review was to reflect the considerable advances in scientific knowledge in areas such as nutrition, toxicology and allergenicity, and the link between diet and long-term health that is now better understood. Incorporation into the new standards of these advances in scientific knowledge should make our food supply safer and healthier.

The final objective was to ensure greater protection for consumers, especially in relation to public health and safety. This was to be achieved through the removal of standards that applied idiosyncratic rules to a limited number of highly controlled foods in favour of standards that applied generic principles to all foods in a diverse and changing market.

5. Relevant Issues

5.1 Meat Description

The Applicant stresses that the purpose of the Application is to overcome the opportunity for manufacturers to include ingredients in a fraudulent or deceptive way that are not acceptable to the public. The Applicant contends that describing a meat pie as containing ‘meat flesh’ rather than just ‘meat’ would promote fairer trading in meat pies by defining more acceptable ingredients and providing more information to enable consumers to make better informed choices.

The Applicant would also like the description to be more specific when defining a meat pie by stating that a pie may also contain a significant quantity of other foods for example ‘vegetable, cheese etc in which case it is not covered under this definition’.

The Applicant has also requested that the composition of meat pies be added into Division 2 - Compositional requirements. The Applicant suggests creating a new clause, clause 4 – Composition of a meat pie, for the addition of a compositional requirements for 25% meat flesh and introducing a labelling requirement that the species of animal from which the meat is derived must be identified on the ingredients list of the meat pie.

5.2 Labelling Issues

Currently, meat pies for retail sale in Australia and New Zealand must be labelled according to the labelling requirements of the Code. The standards that predominantly impact on this Application include the following:

Standard 1.2.2 - Food Identification Requirements requires the label on a package of food to include a name or description of food sufficient to indicate the true nature of the food. A name or description of the food must be accurate and sufficiently detailed such that it is not misleading or deceptive or likely to mislead or deceive.

Standard 1.2.4 – Labelling of ingredients requires all ingredients, including additives (unless exempt) to be listed in a statement of ingredients in descending order of in-going weight. That is, food additives must be declared in their correct place in the ingredient list, by order of in-going weight in the food. Permitted food additives, are required to be identified on a label by their class name followed by the name of the food additive or the food additive number. Furthermore, the statement of ingredients should be accurate and sufficiently detailed to ensure that it is not false, misleading or deceptive, or likely to mislead or deceive.

Standard 1.2.10 – Characterising ingredients and components of food requires ‘characterising ingredients’ to be percentage labelled. The definition for ‘characterising ingredient’ (with some exceptions) is any ingredient or category of ingredients that is mentioned in the name of the food; or is usually associated with the name of the food by consumer; or is emphasized on the label of a food in words, pictures or graphics. Percentage labelling is generally required where an ingredient is considered a ‘characterising ingredient’.

Therefore, any amendments to the definition of ‘meat pie’ to also include ‘significant quantities of other foods’ will need to be considered in the context of Standards 1.2.2, 1.2.4 and 1.2.10.

5.3 Overseas Regulatory Status

There appear to be no definitions in the Codex Alimentarius Standards nor the US Food and Drug Administration (FDA) Code of Federal Regulations identifying provisions for the definition of meat pies.

6. Regulatory Options

Options available are:

- Option 1.** **Not approve** - Maintain the *status quo* and not amend Standard 2.2.1 - Meat and Meat Products to include a new definition of meat pie or to add compositional requirements for meat pies.

- Option 2.** **Approve** - Accept the Application to consider amending Standard 2.2.1 - Meat and Meat Products by providing a different definition of meat pie and to include compositional requirements for meat pies.

7. Impact Analysis

7.1 Affected Parties

Parties affected by the options outlined above include:

1. Those sectors of the food industry manufacturing and selling meat pies.
2. Consumers of meat pies and importers / exporters.
3. Australian, State, Territory and New Zealand Government agencies that enforce food regulations.

8. Consultation

8.1 Public Consultation

FSANZ is seeking public comment in order to assist in the assessment of this Application. The views of the submitters will assist in the development of the Draft Assessment and a preferred regulatory approach on the definition of meat pies and provision of compositional requirements.

All stakeholders that make a submission in relation to the Application will be included on a mailing list to receive further FSANZ documents in relation to the Application during the second round of public consultation. If readers of this Initial Assessment Report are aware of others who might have an interest in this Application, they should bring this to their attention. Other interested parties, as they come to the attention of FSANZ, will also be added to the mailing list for a further round of public consultation after the Draft Assessment.

It is important to provide evidence on whether costs that arise from the food regulatory measure developed or varied as a result of the Application would outweigh the direct and indirect benefits to the community, government or industry.

FSANZ is seeking public comment to assist it in assessing the Application. Comments on, but not limited to, the following would be useful:

Is there a need to change the definition of meat pie and establish compositional requirements as requested by the Applicant?

If the Application is successful what are the implications (including costs and benefits) for pie manufacturers, consumers and regulatory enforcement agencies?

Does the current Code, specifically the labelling requirements, already address the issues raised by the Applicant as justification for amending the Code?

8.2 World Trade Organization (WTO) Notification

As members of the World Trade Organization (WTO), Australia and New Zealand are obligated to notify WTO member nations where proposed mandatory regulatory measures are inconsistent with any existing or imminent international standards and the proposed measure may have a significant effect on trade.

Amending the Code to change the definition for ‘meat pie’ and/or to establish compositional requirements is unlikely to have a significant effect on trade, however this issue will be fully considered at Draft Assessment and, if necessary, notification will be recommended to the agencies responsible in accordance with Australia’s and New Zealand’s obligations under the WTO Technical Barrier to Trade (TBT) or Sanitary and Phytosanitary Measure (SPS) Agreements. This will enable other WTO member countries to comment on proposed changes to standards where they may have a significant impact on them.

9. Conclusion and Recommendation

Having regard to the criteria in section 13 of the FSANZ Act, FSANZ recommends that the Application be accepted for further consideration for the following reasons:

- The Application relates to a matter that warrants a variation to Standard 2.2.1 – Meat and Meat Products.
- The Application is not so similar to a previous application for the development or variation of a food regulatory measure that it ought not to be accepted.
- There is no basis for considering, at this early stage of the assessment, that the costs that would arise from amending the definition and compositional requirements for meat pies as a result of the Application outweigh the direct and indirect benefits to the community, Government or industry
- There are no other measures available to amend a meat pie definition that would be more cost-effective than a food regulatory measure developed or varied as a result of the Application.