

Commonwealth Ombudsman

Complaint concerning the APVMA

PUBLIC REDACTED REPRODUCTION | PREPARED 25 OCTOBER 2026

1. Status of this publication

This is a public-redacted reproduction of Enviroswim / Watertech Services International's historical administrative complaint concerning the Australian Pesticides and Veterinary Medicines Authority (APVMA). The accompanying 97 pages are the July 2026 complaint text, not a new submission, a revised pleading, or an independent scientific or legal determination.

2. Verified source and dates

The 97-page underlying text was compared with a contemporaneous clean 97-page copy attached to Enviroswim correspondence on 10 July 2026. Their substantive text agrees; differences concern public-copy labelling and redaction of names and contact details. The Commonwealth Ombudsman acknowledged receiving a complaint on 10 July 2026. Its intake summary names a supporting file with a different filename; that exact lodged attachment was not recovered for a byte-for-byte comparison.

A separate, later archived Word version contains a cover letter dated 14 July 2026. That later version is not the source for this reproduction. The historical 10 July date printed inside the reproduced pages is therefore intentionally retained.

3. Nature and limits of the allegations

The statements and questions in the accompanying pages are Enviroswim's positions at the time of preparation. Submission or acknowledgement of a complaint does not establish administrative wrongdoing or misconduct by the APVMA, nor does it establish any product's microbiological efficacy or lack of efficacy. No final Ombudsman merits finding had been verified in the records reviewed as at 25 October 2026.

4. Subsequent developments

This historical complaint predates the APVMA's 23 October 2026 disclosure of eight responsive records under Agvet Code request 2026-070-ACR. That later disclosure and its limitations are considered separately in Enviroswim's APVMA Public Dossier, Edition 1.4 (25 October 2026). Do not read this July complaint as an up-to-date inventory of records held by, or disclosed by, the APVMA.

5. Public-release boundaries

Personal contact details and selected individual names have been removed from this public reproduction. It does not include the Ombudsman's five-page intake form or private case-file correspondence. The public document preserves the historical arguments for transparency, not as proof that any allegation has been accepted.

Complaint to the Commonwealth Ombudsman

Concerning the Australian Pesticides and Veterinary Medicines Authority (APVMA)

Handling of swimming pool and spa sanitiser efficacy evidence, FOI/access-to-information responses, legacy product regulation, regulatory parity and Enviroswim's long-running concerns

Complainant	Watertech Services International Pty Ltd / Enviroswim
Contact	[REDACTED]
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Agency complained about	Australian Pesticides and Veterinary Medicines Authority (APVMA)
Document date	10 July 2026
Document status	Complete complaint submission

Prepared as a formal administrative complaint seeking investigation, reasons, transparency and appropriate recommendations.

Cover Letter

Commonwealth Ombudsman

Submission by Watertech Services International Pty Ltd / Enviroswim

10 July 2026

Dear Ombudsman,

Watertech Services International Pty Ltd / Enviroswim submits this complaint concerning the APVMA's handling of long-running concerns about the evidentiary basis for registered swimming pool and spa sanitiser products.

The complaint is not asking the Ombudsman to determine whether any particular sanitiser product is effective or ineffective, or to prefer Enviroswim over chlorine, bromine, hydrogen peroxide, PHMB/biguanide products, salt chlorination, mineral/salt systems or any other technology. It is a complaint about administration: evidence handling, reasons, transparency, record access, treatment of legacy products, regulatory parity and whether APVMA has given a fair and practical answer to a repeated public-interest question.

The central question is whether APVMA holds, has assessed, has relied upon, or can identify scientific efficacy evidence and regulatory reasoning supporting its continued confidence in registered pool and spa sanitiser products, particularly legacy chlorine-based products, hydrogen peroxide and PHMB/biguanide products. Enviroswim submits that APVMA has repeatedly referred to statutory process, registration timing, reconsideration triggers, OECD guidance, the Agvet Code pathway and the absence of continuous re-demonstration requirements, but has not provided a clear consolidated answer to the evidence question.

The complaint is grounded in a long chronology of engagement from approximately 2001-2004 through to 2026, including early APVMA correspondence, the 2014 FOI issue, the 2022 APVMA proposed amendments consultation, renewed correspondence in 2025-2026, the 5 June 2026 FOI request, APVMA's 11 June 2026 response, the 24 June 2026 spreadsheet/evidence-status issue, and the further APVMA response and Enviroswim clarification of 9 July 2026.

Enviroswim asks the Ombudsman to investigate whether APVMA has handled the matter fairly, transparently, practically and with adequate reasons. Enviroswim also asks that the Ombudsman consider recommending that APVMA provide a non-confidential evidence-category statement for major pool and spa sanitiser classes, clarify the treatment of legacy products, explain the continuing significance of the 2014 FOI decision, review the 2026 FOI/Agvet Code handling, provide the reasons and records for not proceeding with the 2022 proposed amendments, and publish technology-neutral guidance distinguishing registration status from contemporary efficacy evidence.

This complaint has been prepared in a restrained way. It does not allege corruption or bad faith. It does not assert that APVMA necessarily holds no relevant evidence. It asks for investigation into whether APVMA has properly answered a legitimate evidence question of public importance.

Yours faithfully,

[Redacted]

For Watertech Services International Pty Ltd / Enviroswim

[Redacted]

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Scope of Complaint

This complaint is deliberately framed as an administrative complaint. It asks the Commonwealth Ombudsman to investigate process, reasons, evidence handling, access to information, treatment of legacy products and regulatory parity. It does not ask the Ombudsman to make a technical product-registration decision.

The central proposition is that registration status is not, by itself, the same thing as transparent, identifiable, contemporary efficacy evidence. Where a Commonwealth regulator maintains confidence in products used in public-health-sensitive settings, affected stakeholders should be able to understand the evidence basis or the alternative basis for that confidence.

The requested outcome is a clear, consolidated, non-confidential explanation from APVMA of the evidence categories and regulatory reasoning supporting registered pool and spa sanitiser products, especially legacy products.

Chapter 1 - Executive Summary and Complaint Overview

1.1 Purpose of this complaint

This complaint is submitted to the Commonwealth Ombudsman concerning the conduct of the Australian Pesticides and Veterinary Medicines Authority, referred to in this report as APVMA, in its handling of long-running concerns raised by Watertech Services International Pty Ltd / Enviroswim concerning the regulation of swimming pool and spa sanitiser products.

The complaint concerns APVMA's handling of matters relating to:

the scientific and documentary basis for APVMA-registered swimming pool and spa sanitiser products;

the treatment of legacy chemical sanitiser products, including chlorine-based products, hydrogen peroxide and PHMB/biguanide products;

APVMA's responses to repeated correspondence from Enviroswim over an extended period;

APVMA's handling of Freedom of Information and access-to-information requests;

APVMA's reliance on statutory process, product registration status and reconsideration mechanisms without, in Enviroswim's view, clearly answering the central evidentiary question;

the apparent distinction between APVMA's published expectations for efficacy evidence and the documentary evidence APVMA has produced or identified in relation to certain incumbent registered products;

the broader public-interest consequences for consumers, pool operators, public aquatic facilities, industry participants, workers, and Australian innovation.

This complaint does not ask the Ombudsman to determine whether any particular registered sanitiser product is effective or ineffective. Nor does it ask the Ombudsman to determine scientific questions that properly belong to a technical regulator. The complaint is narrower and more administrative in character.

The central question for investigation is whether APVMA has handled Enviroswim's concerns, correspondence, evidence requests and access-to-information requests in a manner that is fair, reasonable, transparent, adequately reasoned and consistent with good public administration.

1.2 The complainant

Watertech Services International Pty Ltd, trading through or associated with the Enviroswim technology, is an Australian business involved in swimming pool and spa water treatment technology. Enviroswim has, over many years, raised concerns with APVMA about regulatory consistency, efficacy evidence, public-health performance expectations, and the apparent evidentiary treatment of alternative pool sanitation technologies compared with long-established chemical sanitiser products.

Enviroswim's position is not that APVMA must prefer Enviroswim's technology. Its position is that the regulatory system should be able to identify, produce or explain the evidentiary basis on which registered swimming pool and spa sanitiser products are accepted, maintained, relied upon or treated as regulatory benchmarks.

The complaint is made after repeated correspondence and requests to APVMA over a long period, including historical correspondence from 2001-2004, FOI-related issues in 2014, APVMA consultation activity in 2022, and further correspondence and access-to-information requests in 2025 and 2026. The chronology prepared for the June 2026 FOI request records repeated APVMA engagement from 2001-2004 through 2026 concerning the same central issue: whether registered pool and spa sanitisers, particularly legacy chlorine and other chemical products, are supported by equivalent efficacy evidence and documented regulatory reasoning.

1.3 The agency complained about

The agency complained about is the Australian Pesticides and Veterinary Medicines Authority.

The APVMA is the Commonwealth regulator responsible for the assessment and registration of agricultural and veterinary chemical products, including relevant swimming pool and spa sanitiser products. In this context, Enviroswim's concern is not merely whether products appear on a register. The concern is whether APVMA can identify the scientific evidence, assessment material, decision records or regulatory reasoning that supports confidence in registered pool and spa sanitiser products, especially where those products are relied upon in public-health, consumer, workplace and aquatic-facility settings.

1.4 Core issue for the Ombudsman

The core issue is the apparent gap between registration status and transparent access to documentary efficacy evidence.

Enviroswim has repeatedly sought to understand whether APVMA holds, has assessed, has relied upon, or can identify contemporary efficacy evidence supporting registered swimming pool and spa sanitiser products. This question has particular importance in relation to legacy products that may have entered the regulatory system before current or later efficacy expectations were developed or published.

The issue is not whether APVMA has statutory power to register products or maintain products on the register. The issue is whether APVMA has adequately explained, documented and disclosed the evidentiary basis for continuing regulatory confidence in such products when asked to do so over many years.

In practical terms, Enviroswim's complaint is that APVMA's responses have repeatedly pointed to process, registration status, reconsideration pathways, statutory access mechanisms, or future application pathways, while leaving unresolved the central documentary question:

What efficacy evidence does APVMA hold, has APVMA assessed, or has APVMA relied upon to support the registration or continued registration of swimming pool and spa sanitiser products, particularly legacy chlorine-based products, hydrogen peroxide and PHMB/biguanide products?

1.5 The 2014 FOI issue

A central historical feature of this complaint is the APVMA FOI position recorded in 2014.

Enviroswim's 2026 FOI request expressly referred to an earlier 2014 FOI decision concerning efficacy evidence for registered swimming pool and spa sanitisers. In that 2026 request, Enviroswim stated that APVMA had previously been asked for scientific evidence demonstrating the efficacy of specified APVMA-registered pool and spa sanitiser products in respect of APVMA's own efficacy guideline, and that APVMA's decision was to refuse access on the basis that the documents sought did not exist.

For the purposes of this complaint, Enviroswim does not ask the Ombudsman to treat the 2014 FOI decision as proof that all registered sanitiser products lack efficacy, or that APVMA holds no relevant evidence at all. That would overstate the position.

The more precise and defensible point is this:

The 2014 FOI decision created a serious unresolved administrative and public-interest question about what documentary efficacy evidence APVMA held or could locate for certain registered pool and spa sanitiser products. Enviroswim's later correspondence and 2026 FOI request sought to determine whether that evidentiary position had been updated, changed, confirmed, qualified or contradicted by later APVMA records.

That is the proper Ombudsman issue.

1.6 The 2026 FOI request

On 5 June 2026, Enviroswim submitted a further FOI request to APVMA. The request sought documents held by APVMA from 15 August 2014 to the date of the request that contained, referred to, assessed, summarised, reviewed, identified, relied upon, or recorded the existence or non-existence of scientific evidence or efficacy data supporting the registration, continued registration, renewal, acceptance or regulatory confidence in APVMA-registered swimming pool or spa sanitiser products.

The request was carefully framed. It did not ask APVMA to create a new explanation, opinion, justification or commentary. It sought access to documents held by APVMA showing whether the evidentiary position had changed since the 2014 FOI decision, either positively or negatively, in relation to currently registered swimming pool and spa sanitiser products.

The request identified relevant products and systems including calcium hypochlorite, sodium hypochlorite, lithium hypochlorite, trichloroisocyanuric acid, sodium dichloroisocyanurate, bromine-based sanitisers, hydrogen peroxide, PHMB/biguanide, saltwater chlorination products, mineral/salt products, and other APVMA-registered pool or spa sanitation systems.

It also sought categories of documents including efficacy test reports, microbiological efficacy reports, scientific assessment reports, product performance assessments, registration decision records, internal scientific reviews, records concerning whether efficacy data was required or assessed, and records identifying reliance on historical acceptance, grandfathering, prior registration, label claims, overseas data, manufacturer declarations, Australian Standards, state health guidelines, OECD guidance or other external standards.

The request was therefore not a vague or speculative complaint. It was a structured request directed to a defined evidentiary question.

1.7 APVMA's 11 June 2026 response

On 11 June 2026, APVMA responded to the 5 June 2026 FOI request. APVMA acknowledged that the request sought documents from 15 August 2014 to the date of the request relating to scientific evidence or efficacy data supporting registration, continued registration, renewal, acceptance or regulatory confidence in APVMA-registered swimming pool or spa sanitiser products. APVMA also acknowledged that the request was made in the context of the earlier 2014 FOI decision and sought to determine whether the evidentiary position had changed since that time.

APVMA then stated that no right of access arose under the FOI Act because, in APVMA's view, the documents sought were available under another legislative access scheme, namely provisions of the Agricultural and Veterinary

Chemicals Code. APVMA advised that it would not process the request under the FOI Act and suggested that the request would be more appropriately made under the Agvet Code access pathway.

This response is a significant part of the present complaint.

Enviroswim does not ask the Ombudsman to determine the legal validity of APVMA's statutory interpretation as though the Ombudsman were a court. Rather, Enviroswim asks the Ombudsman to investigate whether APVMA's handling of the request was administratively fair, practical and consistent with the public-interest nature of the documents sought.

The concern is that APVMA's response did not answer the substantive question. It redirected the request into another pathway, potentially involving narrower identification requirements, fees, exclusions and practical barriers, while leaving unresolved whether APVMA holds, has assessed or has relied upon the relevant efficacy evidence.

1.8 The 24 June and 9 July 2026 evidence-status issue

Following the 11 June 2026 response, APVMA later supplied a spreadsheet extract of product and data-record references. Enviroswim's evidence-status statement records that, while APVMA described the extract as identifying efficacy studies relevant to pool and spa products, the extract did not provide the underlying reports, study methods, results, laboratory test conditions or APVMA assessment conclusions.

Enviroswim does not contend that APVMA necessarily holds no relevant evidence or that any specific registered product is ineffective or unlawful. As at 24 June 2026, APVMA had not produced to Enviroswim underlying scientific efficacy reports, laboratory studies, validation reports, APVMA scientific assessments, reviews or decision records demonstrating that chlorine-based sanitisers, hydrogen peroxide or PHMB hydrochloride meet APVMA's applicable efficacy requirements.

This position is confined to what APVMA had and had not produced. It does not assert that APVMA holds no relevant evidence or that any registered product is ineffective or unlawful.

On 9 July 2026, APVMA provided a further response stating that efficacy is assessed and maintained in connection with individual chemical products and their approved uses, rather than as a general assessment of an active constituent, chemical class or sanitising system. APVMA also stated that it does not maintain a separate body of broader category-level records demonstrating that chlorine-based sanitisers, hydrogen peroxide products or PHMB hydrochloride products satisfy the efficacy criteria independently of specific product assessments.

APVMA stated that the material provided on 24 June 2026 represented the efficacy studies identified through its product-specific searches. However, APVMA did not provide or specifically identify the underlying scientific reports, test protocols, organisms tested, exposure conditions, measured log-reduction results, APVMA assessments or decision conclusions associated with those records.

Enviroswim responded on 9 July 2026 by clarifying that the material supplied on 24 June was a spreadsheet extract or index of records rather than the underlying efficacy studies themselves. Enviroswim narrowed its request to the product-specific scientific reports and APVMA assessment records, accepted the redaction of confidential and protected information, and requested clear written confirmation if no such documents are held.

The 9 July 2026 exchange therefore further demonstrates that the central evidentiary question remained unresolved after the request had been repeatedly clarified and narrowed.

1.9 Why the matter is of public interest

The matter is not merely a private commercial dispute between Enviroswim and APVMA.

Swimming pool and spa sanitiser products are used in residential pools, public aquatic facilities, learn-to-swim centres, hotels, resorts, schools, body corporates, health and aged-care facilities, and other commercial recreational environments. Enviroswim's 5 June 2026 FOI request expressly identified the public-health, workplace exposure, consumer protection, aquatic facility safety and regulatory transparency implications of the requested documents.

The public-interest issue is whether regulatory confidence in these products rests on current, identifiable, pool-specific evidence, or whether some products continue to be accepted because of historical practice, prior registration, external standards, state guidelines, label claims, overseas data, manufacturer declarations or other sources. The APVMA FOI/evidence summary prepared in June 2026 identifies the central issue as whether the regulatory system holds, has assessed or can identify contemporary scientific efficacy evidence for APVMA-registered swimming pool and spa sanitiser products, including legacy chlorine, bromine, hydrogen peroxide, PHMB, salt-chlorination and mineral/salt products.

This question affects public confidence in chemical regulation. It also affects fair treatment of innovation. If new or alternative technologies are required to meet contemporary evidence expectations, but legacy products are treated as

accepted benchmarks without equivalent documentary transparency, then the issue becomes one of regulatory consistency and administrative fairness.

1.10 The complaint is about process, not product preference

It is important to state clearly what this complaint is not.

This complaint is not an attempt to use the Ombudsman process as a marketing exercise for Enviroswim. It is not a request that the Ombudsman endorse Enviroswim technology. It is not a request that the Ombudsman ban or deregister chlorine, hydrogen peroxide, PHMB, bromine, salt chlorination or mineral/salt systems. It is not a claim that APVMA necessarily holds no evidence.

The complaint is about whether APVMA has properly administered, explained and documented its handling of the relevant questions.

The complaint asks whether APVMA has:

clearly identified the efficacy evidence it holds or has relied upon;

explained whether legacy products have been assessed against current or later pool/spa efficacy expectations;

explained whether continued regulatory confidence rests on historical acceptance, prior registration, external standards, state health requirements or actual APVMA-held efficacy assessment records;

provided adequate reasons for not processing the 2026 request under FOI;

handled Enviroswim's repeated correspondence with appropriate seriousness and transparency;

properly considered whether the matters raised by Enviroswim warranted reconsideration or independent review;

explained why proposed 2022 amendments concerning pool and spa chemical efficacy assessment did not proceed;

treated alternative technologies and incumbent chemical products consistently in evidentiary terms.

1.11 Summary of matters requiring Ombudsman investigation

Enviroswim requests that the Ombudsman investigate the following matters.

First, whether APVMA has adequately responded to the substantive evidentiary question raised repeatedly by Enviroswim: what efficacy evidence supports registered swimming pool and spa sanitiser products?

Second, whether APVMA has properly distinguished between a product's legal registration status and the existence of accessible, identifiable, contemporary efficacy evidence.

Third, whether APVMA has given adequate reasons for the continued acceptance of legacy pool and spa sanitiser products, particularly where the relevant products may not have been assessed under later efficacy expectations.

Fourth, whether APVMA's 11 June 2026 response to Enviroswim's FOI request was administratively fair and practical, having regard to the public-interest nature of the request and the fact that the request sought to determine whether the 2014 evidentiary position had changed.

Fifth, whether APVMA's use of the Agvet Code pathway, rather than FOI, had the practical effect of limiting, complicating or burdening access to documents of public regulatory significance.

Sixth, whether APVMA has adequately explained the outcome of its 2022 consultation concerning proposed amendments to the way certain pool and spa chemicals are assessed.

Seventh, whether APVMA has properly considered whether Enviroswim's material and long-running correspondence warranted reconsideration, review or independent assessment of legacy swimming pool and spa sanitiser products.

Eighth, whether APVMA has treated Enviroswim and comparable alternative sanitation technologies fairly when compared with incumbent chemical sanitiser products.

Ninth, whether APVMA's handling of this matter reveals a broader systemic issue in the regulation of legacy chemical products where contemporary evidence standards may not be clearly connected to continued registration status.

1.12 Impact on Enviroswim and the wider public interest

The practical impact on Enviroswim is that, over many years, it has faced uncertainty about the regulatory evidentiary baseline against which its technology and competing products are assessed.

If incumbent registered products are treated as accepted benchmarks without transparent identification of the efficacy evidence supporting them, while newer or alternative technologies are expected to supply contemporary evidence, that

creates an apparent imbalance. Enviroswim asks the Ombudsman to investigate whether that imbalance is real, whether it has been properly explained, and whether APVMA's administration has been fair and transparent.

The wider public-interest impact is also significant. Pool and spa sanitiser products are not obscure industrial chemicals used only in controlled technical environments. They are widely used in public and private settings where children, families, workers, swimming instructors, aquatic centre staff, hotel guests, aged-care residents and other users may be exposed.

The question of efficacy evidence is therefore not academic. It concerns public confidence in the regulatory system.

1.13 Requested outcomes

Enviroswim requests that the Commonwealth Ombudsman consider recommending that APVMA:

provide a clear written statement identifying what categories of efficacy evidence APVMA holds or has relied upon for registered swimming pool and spa sanitiser products;

identify whether chlorine-based sanitisers, hydrogen peroxide and PHMB/biguanide products have been assessed against APVMA's applicable pool and spa efficacy expectations, or whether they are accepted on another basis;

explain whether continued registration or regulatory confidence in legacy products relies on historical acceptance, prior registration, overseas data, external standards, state health requirements, label claims, manufacturer declarations or other non-APVMA assessment sources;

provide adequate reasons explaining the handling of Enviroswim's 5 June 2026 FOI request and the decision not to process it under the FOI Act;

review whether the Agvet Code access pathway is adequate for public-interest requests seeking regulatory evidence concerning widely used pool and spa sanitiser products;

provide reasons and relevant records explaining why the 2022 proposed amendments concerning pool and spa chemical efficacy assessment did not proceed;

consider whether the material provided by Enviroswim warrants reconsideration, review, independent expert assessment or publication of a clearer regulatory position;

publish technology-neutral guidance explaining the evidentiary basis for APVMA registration of swimming pool and spa sanitiser products, including the distinction between product registration and contemporary evidence of efficacy;

review its handling of Enviroswim's correspondence to ensure that repeated, evidence-based public-interest concerns are not dealt with only by reference to formal statutory pathways without substantive administrative engagement.

1.14 Limits of the complaint

This complaint is framed carefully.

Enviroswim does not assert that APVMA necessarily holds no relevant efficacy evidence. Enviroswim does not assert that all registered sanitiser products are ineffective. Enviroswim does not ask the Ombudsman to substitute itself for APVMA as the technical regulator.

The complaint asks the Ombudsman to investigate whether APVMA's administration has been adequate, fair, transparent and properly reasoned.

The central proposition is simple:

A product being registered is not, by itself, an answer to a legitimate public-interest request for the evidence and reasoning that supports regulatory confidence in that product.

That is the issue this complaint asks the Ombudsman to examine.

Chapter 2 - Background to Enviroswim, the Technology, and the Regulatory Context

2.1 Purpose of this chapter

This chapter provides background to Watertech Services International Pty Ltd and the Enviroswim technology. It explains why Enviroswim has a direct and legitimate interest in the administration of swimming pool and spa sanitiser regulation by the Australian Pesticides and Veterinary Medicines Authority.

The purpose of this chapter is not to seek product endorsement by the Commonwealth Ombudsman. The complaint does not ask the Ombudsman to determine whether Enviroswim should be preferred to chlorine, salt chlorination, bromine, hydrogen peroxide, PHMB/biguanide systems, mineral/salt systems or any other pool sanitation method.

Rather, this chapter explains why Enviroswim is an informed stakeholder with a long history of regulatory engagement, technical testing, field experience and correspondence with APVMA concerning the evidence base for pool and spa sanitation.

The issue for the Ombudsman is whether APVMA has handled that engagement in a manner consistent with good public administration.

2.2 The complainant

Watertech Services International Pty Ltd is an Australian company associated with the development and commercialisation of the Enviroswim swimming pool water-treatment technology.

The company has been involved in pool and spa sanitation issues for more than two decades. Its engagement with APVMA is not recent, isolated or opportunistic. The documentary chronology records APVMA engagement extending from approximately 2001-2004 through to 2026, including scientific testing, recall-related correspondence, FOI-related matters, APVMA consultation activity, correspondence to the APVMA Chief Executive Officer and Board, and further FOI/access-to-information requests.

That history is important. It demonstrates that Enviroswim's concerns have not arisen simply from a current market dispute. They have been raised repeatedly over many years and concern the same essential question: whether APVMA-registered pool and spa sanitisers, particularly legacy chemical products, are supported by equivalent, transparent and documented efficacy evidence.

2.3 The Enviroswim technology

Enviroswim is a multi-barrier swimming pool water-treatment system using ionisation, electronic oxidation and ultrasonics. The technology is intended to reduce dependence on conventional high-chemical chlorine dosing while maintaining routine pool-management controls, residual sanitation and normal public-health obligations.

This distinction matters.

Enviroswim is not merely a generic "mineral pool" product or a single-process ionisation system. It is a combined treatment pathway involving ionisation, electronic oxidation and ultrasonic treatment.

For the purposes of this complaint, the technical details are relevant only to this extent: Enviroswim is not a vague or speculative concept. It is a defined sanitation technology with a documented history of laboratory testing, operational use and regulatory engagement.

2.4 Evidence and testing history

Enviroswim's position has consistently been that sanitation technologies should be assessed by reference to evidence, not by reference to historical assumptions or incumbent market position.

Enviroswim has relied on Tweed Laboratory Centre testing against NSW Health new disinfection process criteria requiring a 4-log reduction of *Pseudomonas aeruginosa* within 30 seconds. This testing demonstrates that Enviroswim was assessed against a demanding microbiological performance benchmark.

The reported Enviroswim spa-pool trials exceeded the 4-log criterion at the 30-second sampling point, with recorded reductions of 4.895-log and 4.96-log in the reported February 2004 trials.

This material is relevant to the complaint for one reason only: it shows that Enviroswim has not approached APVMA merely with assertions. It has sought to engage APVMA on the basis of laboratory testing, health-department criteria, field experience and comparative evidence expectations.

2.5 Accreditation and independent evidence themes

Enviroswim has also referred to NSF/ANSI 50 certification and independent certification through UL and NSF International. This material is not relied upon as a substitute for Australian regulatory assessment, but as part of an evidence and due-diligence record relevant to public procurement and regulatory comparison.

The issue is one of regulatory parity.

2.6 Australian operating history

Enviroswim has a practical operating history in Australian aquatic settings, including Queensland public aquatic centres and other public-pool settings. Public-pool use and field evaluation are relevant to Queensland aquatic infrastructure and operational feasibility.

The relevance to the Ombudsman is that APVMA was not dealing with an uninformed complainant or a speculative proposal. It was dealing with a company with a long technical and operational history in the same subject matter.

2.7 Enviroswim's interest in APVMA's administration

Enviroswim's interest in APVMA's administration arises from the intersection of three matters.

First, APVMA regulates relevant pool and spa sanitiser products.

Second, Enviroswim and other alternative technologies operate in a market where APVMA registration, health-department requirements, Australian Standards, product labels and industry guidance can strongly influence consumer confidence, procurement decisions and regulatory acceptance.

Third, Enviroswim has long questioned whether equivalent evidentiary expectations have been applied to incumbent legacy chemical products and newer or alternative sanitation technologies.

The complaint is therefore not merely commercial. It concerns whether the Commonwealth regulator has clearly documented and explained the evidence base for regulatory confidence in products widely used in Australian pools and spas.

2.8 The legacy-product concern

A recurring theme in Enviroswim's correspondence is the concern that established chemical sanitiser products may have remained accepted because of historical registration, prior regulatory practice, external standards or legacy assumptions, while newer or alternative technologies have been required to satisfy more explicit efficacy expectations.

The chronology records that APVMA correspondence transmitted on 29 May 2026 stated that products are assessed at registration, that registered products do not continually re-demonstrate compliance absent a legislative trigger, and that the 2022 proposed amendments did not proceed after consideration of submissions and available evidence.

That response may be legally significant, but it does not resolve the administrative concern.

The question is not simply whether APVMA has a statutory mechanism for reconsideration. The question is whether APVMA has adequately explained the evidence base for continued regulatory confidence in legacy products when repeatedly asked to do so.

2.9 Historical APVMA engagement

The historical correspondence to the APVMA Board dated 16 May 2026 states that Enviroswim's concerns date back to approximately 2001-2004 and included formal submissions, laboratory efficacy testing, meetings in Canberra, scientific correspondence, field-trial data, FOI processes and repeated requests for evidentiary clarification.

That correspondence also states that APVMA was formally placed on notice as early as 2004 about concerns including differing evidentiary standards between chlorine and alternative technologies, the efficacy performance of chlorine under NSW Health protocols, public-health implications of chlorine exposure, and the apparent absence of equivalent scrutiny being applied to existing chemical sanitisers.

Enviroswim raised these matters with APVMA over many years. The Ombudsman is asked to investigate whether APVMA's administrative response to those matters was adequate, documented, reasoned and fair.

2.10 The 2014 and 2026 access-to-evidence issue

The present complaint is strongly connected to the 2014 and 2026 access-to-evidence issues.

The 5 June 2026 FOI request states that it was made in the context of APVMA's earlier 2014 FOI decision concerning efficacy evidence for registered pool and spa sanitisers. It records Enviroswim's position that, in the earlier FOI matter, APVMA was asked for scientific evidence demonstrating the efficacy of specified APVMA-registered pool and spa sanitiser products in respect of APVMA's own efficacy guideline, and that APVMA refused access on the basis that the documents sought did not exist.

The 2026 request therefore sought an updated documentary record from 15 August 2014 onward. It sought to determine whether APVMA had obtained, created, received, reviewed, relied upon, identified or otherwise recorded any

evidence, assessment material or decision record that updated, changed, confirmed, qualified or contradicted the earlier position.

This is one of the clearest features of the complaint. Enviroswim was not simply asking APVMA to debate pool chemistry. It was asking APVMA to identify the documentary basis for its regulatory position.

2.11 The public-interest dimension

The public-interest dimension is significant.

The 5 June 2026 FOI request expressly identified that the documents sought concern the scientific and regulatory basis for pool and spa sanitiser registration in Australia. It noted that these products are used in residential pools, public aquatic facilities, learn-to-swim centres, hotels, resorts, schools, body corporates, health and aged-care facilities, and commercial recreational environments.

The request further stated that the subject matter is relevant to public health, workplace exposure, consumer protection, aquatic facility safety, public aquatic facility management and public confidence in Commonwealth chemical regulation.

The complaint extends beyond Enviroswim's private commercial interests. It concerns whether APVMA's administration provides transparent assurance about products intentionally introduced into recreational water environments used by the public.

2.12 Enviroswim's position

Enviroswim's position is as follows.

Enviroswim does not seek preferential treatment. It does not ask that its technology be accepted merely because it is Australian or because it has a long operating history. It does not claim that all other technologies are ineffective. It does not ask the Ombudsman to make a technical product approval decision.

The position is this:

All pool and spa sanitation methods, including chlorine, salt chlorination, bromine, hydrogen peroxide, PHMB/biguanide systems, mineral/salt systems and alternative technologies, should be assessed and administered against transparent, current and independently supportable evidence.

Enviroswim's position is that all pool sanitation methods, including the chlorine benchmark, should be assessed against current, transparent and independently supportable evidence.

2.13 Why this background matters to the Ombudsman

This background matters because it establishes that APVMA was not dealing with a one-off complaint.

It was dealing with a long-running, technically informed and evidence-based concern raised by a stakeholder directly affected by APVMA's regulatory administration. The record shows repeated engagement over more than two decades concerning broadly the same issue: whether pool and spa sanitisers are supported by equivalent efficacy evidence and documented regulatory reasoning.

The Ombudsman is therefore asked to consider whether APVMA's handling of the matter reflects good administration, including:

whether APVMA responded to the substance of the evidentiary question;

whether APVMA provided adequate reasons;

whether APVMA properly distinguished between registration status and evidence of efficacy;

whether APVMA handled access-to-information requests fairly and practically;

whether APVMA treated Enviroswim's material with appropriate seriousness;

whether APVMA has adequately explained the position of legacy products;

whether the administrative record supports public confidence in the regulation of pool and spa sanitisers.

2.14 Chapter conclusion

Enviroswim's complaint arises from a long history of regulatory engagement, testing, correspondence and requests for evidentiary clarification.

The complaint is not that APVMA must approve or prefer Enviroswim. The complaint is that APVMA should be able to identify, explain and disclose the documentary basis on which it maintains regulatory confidence in registered swimming

pool and spa sanitiser products, particularly where legacy products continue to occupy a benchmark position in the market and regulatory environment.

This background supports the central proposition of the complaint:

Registration status alone is not an adequate answer to a legitimate, repeated and public-interest request for the evidence and reasoning that supports regulatory confidence in swimming pool and spa sanitiser products.

Chapter 3 - Chronology of Events and APVMA Engagement

3.1 Purpose of this chapter

This chapter sets out the chronology of Enviroswim's engagement with APVMA concerning swimming pool and spa sanitiser efficacy, regulatory consistency, legacy product treatment, access to evidence, and public-interest accountability.

The purpose of the chronology is not to prove every technical proposition raised by Enviroswim over the past two decades. Rather, it is to show the history, continuity and seriousness of the matters raised with APVMA.

The chronology demonstrates that Enviroswim's concerns have been raised repeatedly from approximately 2001-2004 through to 2026. The recurring issue has remained substantially the same: whether APVMA-registered pool and spa sanitisers, particularly legacy chlorine and other chemical products, are supported by equivalent, identifiable and documented efficacy evidence.

3.2 Chronology as an administrative record

The chronology is an administrative record showing when concerns were raised, how APVMA responded, and what issues remained unresolved.

It is not suggested that the Commonwealth Ombudsman should treat each Enviroswim statement in the chronology as a proven scientific finding. Some items are APVMA positions. Some are Enviroswim assertions. Some are confirmed procedural records. Some are unresolved questions.

This distinction is important.

The complaint does not ask the Ombudsman to decide pool microbiology. It asks the Ombudsman to investigate whether APVMA's administrative handling of repeated, evidence-based concerns was adequate, reasoned and fair.

3.3 2001-2004: early scientific testing and APVMA engagement

The chronology records that, during the period from approximately 2001 to 2004, Enviroswim supplied and relied upon Tweed Laboratory Centre material and other scientific correspondence concerning pool sanitiser efficacy and equivalent public-health performance expectations.

This early period is important because it shows that Enviroswim's concerns did not arise recently in response to a single decision or a current commercial dispute. They arose during the early regulatory treatment of the Enviroswim technology and related questions about equivalent performance expectations for pool sanitation.

The core concern during this period was that alternative sanitation technologies appeared to be required to satisfy specific efficacy expectations, while incumbent chlorine-based or other chemical sanitiser products appeared to occupy a regulatory benchmark position without the same level of transparent, product-specific evidence being visible to Enviroswim.

For Ombudsman purposes, the question is not whether every technical proposition raised during this period was correct. The relevant question is whether APVMA properly engaged with the substance of the concern: regulatory consistency and equivalent evidence standards.

3.4 30 July 2004: APVMA recall-related correspondence

The chronology records that, on or about 30 July 2004, APVMA correspondence and a statement of reasons were issued in relation to Enviroswim, which then became the immediate subject of further correspondence from [REDACTED]

This event appears to have been a significant point in the relationship between Enviroswim and APVMA. Enviroswim's later position is that APVMA's treatment of the Enviroswim technology raised questions about evidentiary consistency, particularly when compared with APVMA's treatment of established chemical sanitisers.

The significance of the 2004 recall-related material is not merely historical. It forms part of the background to Enviroswim's later requests for APVMA to identify the efficacy evidence supporting incumbent registered products.

3.5 10 August 2004: letter to [REDACTED]

The chronology records that, on 10 August 2004, [REDACTED] wrote to Ms [REDACTED], then Deputy General Counsel of APVMA, in response to recall-related material. The chronology states that the letter alleged selective interpretation of scientific evidence, identified Tweed Laboratory efficacy testing, and raised the issue of chlorine-only testing against the NSW Health 4-log₁₀ / 30-second *Pseudomonas aeruginosa* benchmark.

For the purposes of this complaint, the letter is relevant because it shows that Enviroswim was raising evidence-comparison issues with APVMA as early as 2004.

The Ombudsman is not being asked to accept, without further investigation, every technical proposition in that correspondence. The point is that APVMA was placed on notice of a serious concern: whether the evidentiary burden imposed on Enviroswim and comparable technologies was equivalent to the evidentiary basis supporting incumbent chemical sanitisers.

3.6 July-August 2004: correspondence involving [REDACTED] and other APVMA officers

The chronology also records correspondence involving Ms [REDACTED] and other APVMA officers during July and August 2004. It records that prior submissions and documents concerning chlorine standards, efficacy and public-health concerns had been sent to APVMA officers, with receipt acknowledged by Ms [REDACTED].

This is relevant because it suggests that the matters were not confined to a single letter or a single officer. The concerns had been presented to APVMA as part of a broader technical and regulatory record.

Again, the Ombudsman issue is administrative. If APVMA received repeated material raising concerns about chlorine standards, efficacy and public-health implications, what did APVMA do with that material? Was it assessed, filed, escalated, dismissed, answered substantively, or treated only as correspondence?

That question remains important because similar concerns were raised again in later years.

3.7 2014: APVMA pool and spa sanitiser efficacy guidelines and FOI material

The chronology records that, in 2014, APVMA introduced revised efficacy expectations concerning pool and spa sanitisers. Later FOI-related material and correspondence raised that APVMA could not locate or produce documents demonstrating that certain incumbent registered pool sanitisers met the same efficacy framework.

The 2014 FOI issue is one of the most important events in the entire complaint.

APVMA's 15 August 2014 FOI decision concerned three named products and refused access on the basis that the documents sought did not exist. The decision records that searches of product, chemistry and raw data files did not reveal documents meeting the scope.

The 2014 FOI decision does not establish that APVMA had no evidence for every sanitiser product or that chlorine products are ineffective. It establishes that APVMA did not locate documents within scope showing that the three named products met the APVMA guideline.

This event created a serious unresolved administrative question. If APVMA could not locate the requested efficacy documents for named incumbent products, what was the evidentiary basis for regulatory confidence in those products? If the answer depended on historical acceptance, prior registration, external standards, state health requirements, overseas data, or a different regulatory framework, that should have been clearly explained.

3.8 2022: APVMA consultation on proposed efficacy assessment amendments

The chronology records that, in 2022, APVMA consulted on proposed amendments to how certain pool and spa chemicals are assessed. Later APVMA correspondence states that the proposed amendments did not proceed and that the existing framework and guidance remained the basis for future assessment.

APVMA publicly proposed to amend the Efficacy Criteria Determination 2014 to include performance standards for pool and spa sanitisers, with a consultation period from 29 March to 30 June 2022. APVMA later advised that, after considering submissions and available evidence, it did not proceed with the proposed amendments at that time.

This is a major transparency issue.

The Ombudsman should be asked to investigate what records, reasons, scientific advice, internal assessments, stakeholder submissions, executive decisions or policy considerations explain why APVMA did not proceed with the proposed amendments.

This is not a minor procedural matter. If APVMA considered introducing clearer performance standards for pool and spa chemicals and then decided not to proceed, the reasons are directly relevant to public confidence in the regulatory system.

3.9 November 2025: open letter to APVMA

The chronology records that, in November 2025, Enviroswim sent an open letter to APVMA regarding pool sanitation and efficacy. The letter raised further concerns regarding grandfathered chemical sanitisers, evidentiary burden on innovation, chlorine, hydrogen peroxide, PHMB, and the apparent lack of equivalent contemporary proof for legacy products.

This letter appears to have restarted or intensified the current phase of correspondence.

Its importance lies in showing that Enviroswim was not merely pursuing historical dissatisfaction. It was raising a current regulatory question: whether legacy products continued to receive acceptance without contemporary, transparent proof equivalent to that expected of newer technologies.

3.10 27 February 2026: letter concerning regulatory consistency

The chronology records that, on 27 February 2026, ██████████ raised regulatory consistency in APVMA efficacy requirements for swimming pool and spa sanitisers. The matter was referred through ministerial channels.

Enviroswim's position at this time was that APVMA's own published guideline, rather than OECD guidance in isolation, was the relevant benchmark. Enviroswim asked whether chlorine, hydrogen peroxide and PHMB satisfied APVMA's log-reduction, field-trial and safety-margin expectations.

This correspondence sharpened the central issue.

The question was not merely whether APVMA had some general confidence in these products. The question was whether the products satisfied APVMA's own applicable efficacy expectations or whether a different basis was being relied upon.

3.11 1 April 2026: APVMA response, Ref MC26-000543

The chronology records that, on 1 April 2026, APVMA CEO ██████████ responded. The chronology states that APVMA referred to the legislative framework providing a reconsideration process and stated that APVMA would consider evidence submitted with a nomination relating to pool and spa sanitisers.

This response is relevant because it shows APVMA directing Enviroswim toward a reconsideration pathway.

That may have been a legally available response. However, from Enviroswim's perspective, it did not answer the central evidence question.

The issue for the Ombudsman is whether APVMA's response adequately engaged with the substance of the concern or merely pointed to a future statutory process that placed the burden back on Enviroswim.

3.12 April-May 2026: further correspondence to APVMA CEO and Board

The chronology records that further correspondence was sent to APVMA CEO and Board on 2 April, 27 April, 12 May and 18 May 2026. Those letters concerned swimming pool and spa sanitiser efficacy requirements, evidentiary consistency, legacy product registration, AS 3633, chlorine, public-health risk and unresolved historical concerns.

This sequence is important because it shows repeated attempts to obtain substantive engagement.

3.13 16 May 2026: historical correspondence letter to APVMA Board

The chronology records that, on 16 May 2026, a formal historical summary was provided to the APVMA Board. That summary identified correspondence with ██████████ and ██████████ and restated Enviroswim's position that the same efficacy, governance and evidentiary concerns had remained unresolved for more than two decades.

This is significant because the APVMA Board was placed on notice of the long history.

The Ombudsman should consider whether APVMA's governance response was adequate once the Board was provided with a historical summary alleging that the same regulatory issues had remained unresolved since the early 2000s.

A reasonable administrative response might have included a structured issue summary, a search of relevant historical records, a clear statement of what APVMA did and did not hold, an explanation of the status of legacy products, and a reasoned response to the 2022 consultation issue.

The complaint is that no such comprehensive answer has been provided to Enviroswim.

3.14 29 May 2026: APVMA response, Ref MC26-000919

The chronology records that, on 29 May 2026, APVMA responded by stating that products are assessed at registration, registered products do not continually re-demonstrate compliance absent a legislative trigger, and the 2022 proposed amendments did not proceed after consideration of submissions and available evidence.

APVMA's 2026 correspondence states that products are assessed at the time of registration, that existing products are not required to continually re-demonstrate compliance absent a trigger, and that APVMA may consider regulatory action where new information indicates that a product may no longer meet statutory criteria.

This response is central to the Ombudsman complaint.

APVMA's position may explain the legislative architecture. It does not, by itself, answer the public-interest question of whether APVMA can identify current or historical evidence supporting legacy products, or whether those products meet APVMA's applicable efficacy expectations.

This distinction should be made clearly throughout the complaint:

Legal registration status and contemporary identifiable efficacy evidence are not the same thing.

3.15 5 June 2026: FOI request concerning efficacy evidence

On 5 June 2026, Enviroswim submitted a further FOI request to APVMA. The request sought access to documents held by APVMA from 15 August 2014 onward that contained, referred to, assessed, summarised, reviewed, identified, relied upon, or recorded the existence or non-existence of scientific evidence or efficacy data supporting registration, continued registration, renewal, acceptance or regulatory confidence in APVMA-registered swimming pool or spa sanitiser products.

The request expressly stated that it was made in the context of APVMA's earlier 2014 FOI decision and sought to determine whether the evidentiary position had changed since that decision.

The request was broad in subject matter but disciplined in purpose. It asked for documents, not a new explanation. It sought to identify whether APVMA had obtained, created, received, reviewed, relied upon or otherwise recorded evidence that updated, changed, confirmed, qualified or contradicted the earlier FOI position.

The request also identified specific document categories, including efficacy test reports, microbiological efficacy reports, scientific assessment reports, registration decision records, internal reviews, records concerning reliance on historical acceptance or external standards, and records concerning the 2022 consultation and reasons for not proceeding with amendments.

This request was a key step. It converted the long-running issue into a defined access-to-documents question.

3.16 June 2026: public-interest basis for the FOI request

The FOI request also explained the public-interest basis for disclosure. It stated that the documents concerned the scientific and regulatory basis for swimming pool and spa sanitiser registration in Australia, and that such products are used in residential pools, public aquatic facilities, learn-to-swim centres, hotels, resorts, schools, body corporates, health and aged-care facilities, and commercial recreational environments.

The request stated that the subject matter was relevant to public health, workplace exposure, consumer protection, aquatic facility safety, public aquatic facility management and public confidence in Commonwealth chemical regulation.

This supports the request for Ombudsman investigation.

It shows that Enviroswim did not present the FOI request as a narrow private commercial fishing exercise. It expressly linked the request to public confidence in regulation and the safety and management of environments where sanitiser products are used.

3.17 June 2026: APVMA response and Agvet Code pathway

APVMA acknowledged Enviroswim's request for documents from 15 August 2014 onward relating to scientific evidence or efficacy data supporting registration, continued registration or regulatory confidence in registered swimming pool and spa sanitiser products.

The subsequent issue was APVMA's position that the request should be handled through an Agvet Code access pathway rather than processed under FOI.

For Ombudsman purposes, the issue is not framed as a legal appeal from APVMA's interpretation. The issue is whether this handling was administratively fair and practical given the nature of the request, the history of the matter, and the public-interest character of the documents sought.

The key administrative question is this:

Did APVMA's handling of the 2026 request assist public understanding of the evidence base, or did it redirect Enviroswim into a process that left the central issue unresolved?

3.18 24 June and 9 July 2026: spreadsheet extract, APVMA response and continuing evidence-status issue

The APVMA evidence-status statement records that, on 24 June 2026, APVMA supplied a spreadsheet extract of product and data-record references after conducting a structured search. It states that, while APVMA described the extract as identifying efficacy studies relevant to pool and spa products, the extract did not provide the underlying reports, study methods, results, laboratory test conditions or APVMA assessment conclusions.

The statement does not assert that APVMA necessarily holds no relevant evidence or that any specific registered product is ineffective or unlawful. It records what APVMA had and had not produced to Watertech / Enviroswim as at that date.

The significance is that, even after the 2026 access-to-information process, Enviroswim still had not received the underlying scientific reports or APVMA assessment records needed to determine whether chlorine-based sanitisers, hydrogen peroxide or PHMB hydrochloride met APVMA's applicable efficacy requirements.

On 9 July 2026, APVMA stated that efficacy information is considered and maintained in connection with individual product applications and that it does not maintain a separate body of broader category-level efficacy records for chlorine-based sanitisers, hydrogen peroxide products or PHMB hydrochloride products.

APVMA further stated that the material supplied on 24 June 2026 represented the efficacy studies identified through product-specific searches. The response did not, however, provide or specifically identify the underlying reports, test protocols, results, APVMA assessments or conclusions associated with those records.

Enviroswim replied on 9 July 2026, clarifying the distinction between an index of records and an efficacy study, providing the Tweed Laboratory Centre ES1 report as an example of the type of scientific report sought, and again requesting the underlying product-specific efficacy and APVMA assessment material. Enviroswim expressly accepted redaction of confidential commercial information, proprietary formulation details, personal information and protected data.

The exchange confirms that APVMA understood the request to concern product-specific evidence, but the actual scientific reports and APVMA assessment conclusions remained unproduced and unidentified.

3.19 Chronology table for the Ombudsman

Date / period	Event	Relevance to Ombudsman complaint
2001-2004	Enviroswim supplies and relies upon Tweed Laboratory Centre material and other scientific correspondence concerning pool sanitiser efficacy.	Shows early technical and regulatory engagement.
30 July 2004	APVMA recall-related correspondence and statement of reasons issued concerning Enviroswim.	Marks a key historical regulatory event.
10 August 2004	██████ writes to ████████ APVMA Deputy General Counsel, concerning recall material and efficacy evidence issues.	Shows early raising of evidence-comparison concerns.
July-August 2004	Correspondence involving ████████ ██████ and other APVMA officers.	Shows APVMA officers were provided with material concerning chlorine standards, efficacy and public-health concerns.
2014	APVMA pool and spa sanitiser efficacy guideline / FOI material.	Establishes the key historical FOI issue and unresolved evidence question.
2022	APVMA consultation on proposed efficacy assessment amendments.	Raises a transparency issue concerning why proposed amendments did not proceed.
November 2025	Open letter to APVMA regarding pool sanitation and efficacy.	Re-raises legacy-product and evidentiary parity concerns.
27 February 2026	Letter concerning regulatory consistency in APVMA efficacy requirements.	Frames APVMA's own guideline as the relevant benchmark.
1 April 2026	APVMA response Ref MC26-000543.	APVMA refers to reconsideration process

		and evidence nomination pathway.
2 April, 27 April, 12 May, 18 May 2026	Further correspondence to APVMA CEO and Board.	Shows repeated escalation and unresolved concerns.
16 May 2026	Historical correspondence summary to APVMA Board.	Places Board on notice of long-running unresolved concerns.
29 May 2026	APVMA response Ref MC26-000919.	APVMA states products are assessed at registration and are not continually required to re-demonstrate compliance absent a trigger.
5 June 2026	Further FOI request submitted.	Seeks updated documentary record from 15 August 2014 onward.
June 2026	APVMA treats/accesses material through Agvet Code pathway.	Raises administrative handling and access-to-information concern.
24 June 2026	APVMA supplies spreadsheet extract of product/data-record references.	Does not provide underlying reports or APVMA assessment conclusions, leaving the central evidence question unresolved.
9 July 2026	APVMA states that efficacy is maintained in connection with individual products and characterises the 24 June spreadsheet extract as representing identified efficacy studies. Enviroswim replies that the extract is not the underlying scientific reports and again requests the product-specific studies and APVMA assessment records.	Confirms APVMA's product-specific position but leaves the underlying reports, test results and APVMA conclusions unproduced and unidentified.

3.20 Analysis of the chronology

The chronology reveals six important features.

First, the issue has persisted for more than two decades. The same broad concerns about efficacy evidence, chlorine benchmarking, legacy product treatment and regulatory consistency appear repeatedly from 2004 through 2026.

Second, APVMA has repeatedly responded by reference to process: recall decisions, registration timing, reconsideration triggers, future nominations, consultation outcomes, FOI limitations and Agvet Code access pathways.

Third, APVMA's responses appear not to have clearly answered the central question: what documentary efficacy evidence supports registered pool and spa sanitisers, particularly legacy chlorine, hydrogen peroxide and PHMB products?

Fourth, the 2014 FOI decision and the 2026 evidence request together create a coherent administrative issue. Enviroswim was not simply complaining. It sought to test whether APVMA's evidentiary position had changed since 2014.

Fifth, the 2022 proposed amendments create a separate but related transparency issue. APVMA apparently considered introducing clearer performance standards for pool and spa chemicals and later did not proceed. The reasons for that decision should be identifiable.

Sixth, the 9 July 2026 exchange demonstrates that, even after APVMA confirmed that efficacy is considered at individual product level and that product-specific searches had identified efficacy records, APVMA still did not provide or specifically identify the underlying scientific studies or assessment conclusions requested by Enviroswim.

3.21 Matters arising from the chronology

The chronology gives rise to the following questions for Ombudsman investigation:

Did APVMA maintain adequate records of Enviroswim's historical concerns and technical submissions?

Did APVMA properly assess or escalate the recurring issue of regulatory consistency between legacy products and alternative technologies?

Did APVMA provide adequate reasons when responding to Enviroswim's repeated requests for efficacy evidence?

Did APVMA distinguish clearly between legal registration status and identifiable evidence of contemporary efficacy?

Did APVMA adequately explain whether legacy products are supported by guideline-equivalent evidence, historical acceptance, prior registration, external standards, state health guidance, overseas data, manufacturer declarations, or another basis?

Did APVMA properly consider whether Enviroswim's material warranted reconsideration or review of registered pool and spa sanitisers?

Did APVMA handle the 2026 FOI/access-to-information request in a manner that was practical, fair and consistent with public-interest transparency?

Did APVMA provide adequate reasons for not proceeding with the 2022 proposed amendments concerning pool and spa chemical efficacy assessment?

3.22 Chapter conclusion

The chronology supports the core complaint proposition.

This is not a new complaint. It is not a one-off disagreement. It is not merely a commercial dispute. It is a long-running administrative issue concerning evidence, reasons, transparency and regulatory parity.

The record shows repeated APVMA engagement from 2001-2004 through 2026 concerning substantially the same central issue: whether registered pool and spa sanitisers, particularly legacy chlorine and other chemical products, are supported by equivalent efficacy evidence and documented regulatory reasoning.

The chronology therefore supports a proper request for Ombudsman investigation into whether APVMA's handling of Enviroswim's concerns has been fair, reasonable, transparent and consistent with good public administration.

Chapter 4 - APVMA's Published Efficacy Framework for Pool and Spa Sanitisers

4.1 Purpose of this chapter

This chapter sets out the APVMA's published efficacy framework for swimming pool and spa sanitiser products.

The purpose is not to ask the Commonwealth Ombudsman to make a technical product-registration decision. The purpose is to identify the framework APVMA itself has published for demonstrating the efficacy of pool and spa sanitisers, and then to explain why that framework gives rise to legitimate administrative questions about evidence, reasons, transparency and regulatory parity.

The central issue is this:

If APVMA publishes detailed efficacy expectations for pool and spa sanitisers, then APVMA should be able to identify whether registered legacy products are supported by evidence meeting those expectations, or explain clearly why a different evidentiary basis applies.

That is the administrative issue for Ombudsman investigation.

4.2 APVMA's role in pool and spa sanitiser regulation

APVMA's own published guidance states that, under agvet legislation, pool and spa sanitisers are considered agricultural chemical products. Before new products can be registered and allowed into the marketplace, APVMA must be satisfied of statutory criteria relating to safety, efficacy, trade and labelling. APVMA states that its pool and spa sanitiser guideline sets out how applicants may demonstrate that a proposed new product satisfies APVMA's efficacy criteria. (APVMA)

This is significant because pool and spa sanitisers are not merely consumer goods sold under ordinary commercial claims. They sit within a Commonwealth regulatory framework. Registration status therefore carries public significance and may influence state health guidance, industry training, procurement decisions, consumer confidence and market conduct.

For that reason, the evidence supporting regulatory confidence should be capable of being identified and explained.

4.3 APVMA's recognition of traditional chlorine and bromine products

APVMA's current published guideline states that swimming pool and spa pool disinfection has historically relied mainly on chemical sanitisers based principally on chlorine and bromine. It also states that the efficacy of those traditional sanitisers is "well established" with regard to different kinds of pathogenic microorganisms, while new types of chemical sanitisers lack such an established record. (APVMA)

This statement is central to the complaint.

Enviroswim does not contend that chlorine cannot disinfect water. The issue is whether APVMA can identify the documentary evidence, assessment records and regulatory reasoning supporting the benchmark status of registered legacy products.

APVMA relies on the established status of traditional sanitisers as a benchmark, but Enviroswim has repeatedly asked APVMA to identify the documentary evidence, assessment records or regulatory reasoning that supports that benchmark status for registered legacy products.

The Ombudsman should be asked to investigate whether APVMA has adequately answered that question.

4.4 The guideline applies most clearly to new products

APVMA's published guideline states that all new pool and spa sanitiser products need to demonstrate that they are efficacious, whether they are novel chemicals or traditional sanitisers with a long history of safe use. APVMA also states that applicants may satisfy its efficacy criteria by demonstrating that the product meets the listed performance characteristics, or by submitting alternative information and scientific argument aimed at satisfying the efficacy criteria. (APVMA)

This is where the legacy-product issue arises.

The published framework applies most directly to new applications, and older registered products may not be automatically required to re-demonstrate compliance whenever guidance changes.

However, that does not end the matter. The public-interest question is whether APVMA can explain the relationship between:

current published efficacy expectations;

products assessed under older arrangements;

products retained on the register through legacy or historical registration status;

APVMA's continuing confidence in those products;

the evidence APVMA holds or relies upon today.

The public-interest question is not whether later guidance automatically invalidates earlier registrations. It is whether the regulator should identify the evidence it relies upon, publish a reasoned position, or activate reconsideration where the modern evidence base is uncertain.

4.5 The core efficacy criteria

APVMA's published guideline frames efficacy as a performance question. It states that, to satisfy the efficacy criteria, a proposed new sanitiser product should be shown to be effective against key pathogens in the major classes of human pathogenic microorganisms commonly found in swimming-pool and spa-pool water, namely bacteria, protozoa and viruses. Where relevant, APVMA also expects equivalent efficacy to a registered sanitiser based on hypochlorous acid or hypochlorite against those same classes of microorganisms. (APVMA)

APVMA encourages applicants to submit a combination of laboratory and field-trial information. Laboratory trials are described as demonstrating efficacy under controlled conditions, while field trials demonstrate that the product works as expected under actual use conditions. APVMA states that both components are important for satisfying the efficacy criteria for this class of chemicals. (APVMA)

APVMA's framework requires demonstrable performance against relevant organisms under controlled and real-world conditions.

4.6 General performance features required of a sanitiser

APVMA's published guidance identifies several performance features that applications to register swimming-pool or spa-pool sanitiser or disinfecting processes should address.

These include:

APVMA performance feature	Relevance to the complaint
Effective residual concentration maintained in the pool body	The product should provide continuous disinfection, not merely temporary treatment.
Residual capable of field measurement	Pool owners and operators must be able to measure and manage the treatment system.
Supplementary dosing capability	The system must be capable of correction if measured levels fall

	below the recommended effective concentration.
Known safety margin of efficacy	APVMA expects a margin between normal operation and minimum efficacy threshold.
Identification of relative contributions of active constituents	Multi-component systems should explain what each active component contributes.
Compatibility with algaecides where relevant	Use with other products should not undermine efficacy or safety.

APVMA states that it is the applicant's responsibility to prove through the application that the proposed sanitiser or disinfecting process can meet these criteria. (APVMA)

The Ombudsman relevance is clear. If APVMA requires this level of detail from new applicants, APVMA should be able to explain what comparable evidence exists, or what alternative basis is relied upon, for incumbent products that continue to occupy a benchmark position.

4.7 Laboratory testing phase

APVMA's published guideline states that, as a first step, a sanitiser or disinfecting process should be shown to be effective under defined laboratory conditions against key indicator organisms within the major classes of pathogenic microorganisms associated with swimming and spa pools. (APVMA)

The guideline also states that tests should be carried out by a NATA-registered or similarly accredited laboratory with no affiliation or commercial connection to the applicant, and that assay methods should be well established and reproducible by the host laboratory. (APVMA)

This matters because APVMA's own framework recognises that efficacy evidence should be technically sound, controlled, reproducible and independent.

That is why Enviroswim's repeated request is reasonable: it asks APVMA to identify whether such evidence exists for registered legacy pool and spa sanitiser products, or whether APVMA relies on some other evidence category.

4.8 Test conditions and safety margin

APVMA's guideline requires that test conditions simulate use conditions. It states that tests should be carried out at 25-30°C for swimming pools and 34-36°C for spa pools, and at a pH consistent with both efficacy and bather comfort and safety. If parallel hypochlorite controls are used, APVMA specifies that those controls should be carried out at pH 7.2 to 7.3. (APVMA)

APVMA's guideline also states that the sanitiser needs to remain effective against pathogens at 50% of its recommended operating concentration, and that the sanitiser must have been independently demonstrated to be safe for bathers at two times the highest recommended concentration of the active constituent or constituents. (APVMA)

This demonstrates that APVMA's framework is concerned not only with performance under ideal conditions, but also with safety margins, operating conditions, bather safety and real-world manageability.

4.9 Target performance characteristics

APVMA's current published guideline includes target performance characteristics for effective sanitisers against recommended test organisms. The current APVMA page lists, among other things:

Organism class	Test organism	APVMA current listed target
Bacteria	Escherichia coli	4 log ₁₀ reduction in 30 seconds
Bacteria	Enterococcus faecium	4 log ₁₀ reduction in 2 minutes
Bacteria	Pseudomonas aeruginosa - spa pools only	4 log ₁₀ reduction in 2 minutes
Bacteria	Legionella pneumophila - spa pools only	4 log ₁₀ reduction in 2 minutes
Viruses	Adenovirus, disaggregated	3 log ₁₀ reduction in 10 minutes
Viruses	Rotavirus, disaggregated	3 log ₁₀ reduction in 2 minutes
Protozoa	Naegleria fowleri cysts	4 log ₁₀ reduction in 30 minutes
Protozoa	Giardia duodenalis or Giardia muris cysts	3 log ₁₀ reduction in 45 minutes

APVMA states that the performance characteristics of 1 mg/L free chlorine from hypochlorous acid or hypochlorite have been demonstrated in the scientific literature to be equivalent to the performance characteristics shown in its table. (APVMA)

If APVMA relies on scientific literature to establish the performance characteristics of free chlorine as the benchmark, Enviroswim asks the Ombudsman to require APVMA to identify the literature, assessment records and reasoning relied upon, and to explain how that benchmark was applied to specific registered products.

4.10 Important distinction concerning the 30-second *Pseudomonas* benchmark

The historical NSW Health New Disinfection Process Criteria, and some APVMA-related historical material, refer to a 4-log reduction of *Pseudomonas aeruginosa* within 30 seconds. The archived APVMA pool-safety background document also refers to current typical laboratory standards calling for a four log₁₀ reduction of one or more bacterial indicator species within a specified period such as 30 seconds, and later lists *Pseudomonas aeruginosa* as 4 log₁₀ within 30 seconds in its table.

However, APVMA's current published guideline page lists *Pseudomonas aeruginosa* for spa pools only at 4 log₁₀ within 2 minutes, while APVMA's 2022 proposed amendments consultation listed *Pseudomonas aeruginosa* at 4 log₁₀ within 30 seconds. (APVMA) (APVMA)

The Ombudsman should be asked to require APVMA to explain:

which performance criteria applied at each relevant time;

which criteria applied to new products;

which criteria, if any, applied to legacy registered products;

whether the criteria changed between the historical NSW Health approach, APVMA's earlier public material, the 2014 guideline, and the 2022 proposed amendments;

whether APVMA holds records explaining the scientific basis for those differences.

This is a strong administrative point because it concerns clarity, consistency and transparency.

4.11 Testing of multi-active or combined systems

APVMA's guideline gives special attention to products with more than one active constituent. It states that for products with more than one active constituent and different modes of action, such as metal ions and accompanying oxidisers, the independent contribution of each active constituent to overall efficacy should be demonstrated. (APVMA)

The guideline also states that copper- and silver-ion-based sanitisers are necessarily used in conjunction with oxidisers, usually chlorine or one or more peroxygen compounds, and that it is important to establish how much of the overall efficacy is contributed by the metal ions and how much by the oxidiser. APVMA also states that it is important to demonstrate that the sanitiser remains effective at half its recommended operating concentration. (APVMA)

This section of the guideline is directly relevant to Enviroswim because Enviroswim is a combined technology. It is also relevant to the fairness issue. If APVMA expects alternative or combined systems to provide detailed component-contribution evidence, APVMA should be able to explain what equivalent scrutiny has been applied to incumbent systems and legacy chemical products.

That does not mean all products must be tested in exactly the same way. It means differences in evidence requirements should be explained rationally, transparently and consistently.

4.12 Field testing in full-sized swimming or spa pools

APVMA's published guideline states that field testing should be conducted after successful laboratory trials. It states that efficacy trials in full-size swimming pools and spa pools should be conducted by an independent agency accredited by JAS-ANZ or an equivalent organisation, and that results should be analysed and reported without intervention by the applicant. (APVMA)

The guideline further states that field trials should use busy public pools with significant and variable bather load, and that the aim is to demonstrate efficacy under actual use conditions. APVMA states that the test protocol should be of not less than six months' duration on the type of pool or spa in which the sanitiser or disinfecting process is to be used. (APVMA)

APVMA's framework recognises that laboratory performance alone is not sufficient.

APVMA's own framework recognises that laboratory performance alone is not enough. It recognises that bather load, use pattern, pool design, circulation, dosing, pH, alkalinity, rainfall, filtration, backwashing, sampling location and other operational features matter.

The Ombudsman should ask whether APVMA has comparable field evidence for incumbent sanitiser products that continue to operate as regulatory and market benchmarks, or whether APVMA relies on historical acceptance, literature, overseas data, standards, state health guidance or other forms of evidence.

4.13 Field-testing performance indicators

APVMA's current guideline provides field-testing performance indicators including:

Field-test organism / parameter	APVMA current listed maximum allowable result
Heterotrophic colony count	100 CFU/mL
Thermotolerant coliforms	Nil / not detectable in 100 mL
<i>Pseudomonas aeruginosa</i>	Nil / not detectable in 100 mL

APVMA's guideline also identifies the trial features to be recorded, including pool design specifications, pool volume, indoor/outdoor location, circulation pattern, turnover rates, balance tank details, dosing method, whether chlorine is stabilised or unstabilised, other chemicals used, filtration and backwashing, rainfall events, laboratories used, microorganism-test methods, chemical assays and safety data sheets. It also identifies sampling information, daily bather loads, water temperature, clarity, pH, alkalinity and sanitiser concentration at time of sampling. (APVMA)

These requirements are highly relevant to Enviroswim's complaint. They show that APVMA understands pool sanitiser efficacy as a real-world system-performance issue, not just a label claim or generic chemical property.

4.14 The 2022 proposed amendments

APVMA's 2022 consultation is especially important because APVMA publicly proposed amendments to how the efficacy of certain pool and spa chemicals is assessed.

The APVMA consultation page states that the consultation ran from 29 March 2022 to 30 June 2022. It also states that section 5B of the Agvet Code defines how a product meets the efficacy criteria and that APVMA's Efficacy Criteria Determination 2014 did not include specific performance-based criteria against which the efficacy of products, including pool and spa sanitisers, are compared. (APVMA)

APVMA therefore proposed to amend the Efficacy Criteria Determination 2014 to include specific performance standards for certain types of products. The consultation page stated that APVMA's current guidance drew on OECD guidance and that APVMA would continue to rely on the OECD guidance. (APVMA)

APVMA itself identified that the existing legislative determination did not contain specific performance-based criteria for products including pool and spa sanitisers.

That does not prove wrongdoing. It does prove that APVMA considered reform significant enough to consult publicly.

4.15 The 2022 proposed performance standards

The 2022 proposed amendments included proposed laboratory testing performance standards for pool and spa sanitisers, including:

Test organism	Proposed log10 reduction	Proposed exposure time
<i>Escherichia coli</i>	4	30 seconds
<i>Enterococcus faecium</i>	4	2 minutes
<i>Pseudomonas aeruginosa</i>	4	30 seconds
<i>Legionella pneumophila</i>	4	30 seconds
<i>Staphylococcus aureus</i>	4	30 seconds
Adenovirus, disaggregated	3	10 minutes
Rotavirus, disaggregated	3	2 minutes
<i>Naegleria fowleri</i> cysts	4	30 minutes
<i>Giardia intestinalis</i> or <i>Giardia muris</i> cysts	3	45 minutes

The same consultation also proposed field-testing performance criteria including culturable microorganisms at 100 CFU/mL, thermotolerant coliforms not detectable in 100 mL, and *Pseudomonas aeruginosa* not detectable in 100 mL. (APVMA)

This proposed schedule is important because it shows APVMA considered translating guidance into more specific, performance-based criteria. The Ombudsman should be asked to investigate what records explain why APVMA did not proceed with those amendments.

4.16 The unresolved issue: guidance, determination and legacy products

The 2022 consultation page creates a key distinction.

APVMA had published guidance about demonstrating efficacy. But the consultation page stated that the Efficacy Criteria Determination 2014 did not include specific performance-based criteria for products including pool and spa sanitisers. APVMA proposed to amend that determination to include such standards. (APVMA)

This distinction matters.

The Ombudsman should ask APVMA to explain:

whether the published guideline was applied as binding, advisory or discretionary guidance;

whether the 2014 Efficacy Criteria Determination operated differently from the published guideline;

whether existing registered pool and spa sanitisers were ever assessed against the published performance characteristics;

whether legacy products were exempt in practice from later performance-based expectations;

whether APVMA's decision not to proceed with the 2022 amendments left a continuing gap between guidance and enforceable criteria.

This is not a technical attack. It is a governance question.

4.17 Relationship to the 2014 FOI decision

The significance of the APVMA efficacy framework cannot be separated from the 2014 FOI decision.

The 2014 FOI decision concerned a request for scientific evidence demonstrating that three named APVMA-registered pool sanitisers met the APVMA pool and spa guideline. APVMA refused access because the documents sought did not exist after searches of product files, chemistry files and raw data.

The relevant evidentiary position is limited and specific:

The 2014 FOI decision is not an admission that chlorine products are ineffective or that no efficacy evidence exists. It is a defined APVMA access decision in which APVMA did not locate documents within scope for three named products against the APVMA guideline.

That is still highly significant.

If APVMA had a published efficacy framework and could not locate guideline-specific efficacy documents for certain named registered products, the Ombudsman should investigate what that says about APVMA's records, APVMA's treatment of legacy products, and the distinction between registration status and current evidence transparency.

4.18 Relationship to APVMA's 2026 position

APVMA's 2026 position is that products are assessed at the time of registration, that existing products are not required to continually re-demonstrate compliance absent a trigger, and that APVMA may consider regulatory action where new information indicates that a product may no longer meet statutory criteria.

That may explain the legal architecture. It does not answer the evidence question.

The question remains:

What evidence does APVMA hold or rely upon today to support continued regulatory confidence in legacy pool and spa sanitiser products, and how does that evidence compare with the published performance expectations applied to newer or alternative products?

That is the question this chapter prepares for the Ombudsman.

4.19 Administrative significance for the Ombudsman

The published framework gives rise to several administrative issues.

First, APVMA has a detailed efficacy framework for pool and spa sanitisers. It is not a vague or informal subject area.

Second, APVMA's framework requires evidence of efficacy against important pathogen classes, measurable residuals, safety margins, active-constituent contribution, laboratory testing and field performance.

Third, APVMA's own public materials treat traditional chlorine and bromine sanitisers as well-established benchmarks. That benchmark status should be capable of explanation.

Fourth, APVMA's 2022 consultation shows that APVMA itself considered specific performance-based criteria for pool and spa chemicals but did not proceed with those amendments.

Fifth, the 2014 FOI decision and the later 2026 access request make the issue concrete: Enviroswim has asked APVMA to identify the documents and evidence supporting regulatory confidence.

The Ombudsman is therefore not being asked to adjudicate pool chemistry. The Ombudsman is being asked to examine whether APVMA's administrative handling of the evidence question has been adequate, transparent, reasoned and fair.

4.20 Questions arising from APVMA's published framework

The following questions should be put to the Ombudsman as matters requiring investigation:

What is the current legal and practical status of APVMA's published pool and spa sanitiser efficacy guideline?

Does APVMA apply the guideline to all new pool and spa sanitiser products?

Does APVMA apply the guideline, or any equivalent performance standard, to legacy registered products?

If legacy registered products are not required to meet the current guideline, what evidentiary basis supports APVMA's continuing regulatory confidence in them?

What scientific literature or assessment records support APVMA's statement that traditional chlorine and bromine efficacy is well established?

Does APVMA hold product-specific efficacy evidence for registered chlorine, bromine, hydrogen peroxide, PHMB/biguanide, salt-chlorination and mineral/salt products?

Does APVMA hold field-trial evidence for legacy registered products equivalent to what it expects of new applicants?

What records explain the difference between the historical NSW 4-log / 30-second *Pseudomonas* criterion, APVMA's archived public material, APVMA's current guideline table, and the 2022 proposed amendments?

What records explain APVMA's decision not to proceed with the 2022 proposed amendments?

Has APVMA considered whether the 2014 FOI decision, subsequent correspondence, Enviroswim testing material, public-health literature or workplace exposure developments amount to information capable of triggering reconsideration?

4.21 Chapter conclusion

APVMA's published framework confirms that pool and spa sanitiser efficacy is a serious, performance-based regulatory issue. APVMA expects new products to demonstrate efficacy against key pathogens, to maintain measurable residual protection, to establish safety margins, to identify the contribution of active constituents, and to demonstrate performance through laboratory and field evidence.

That framework supports Enviroswim's central administrative complaint.

The complaint is not that APVMA must automatically deregister legacy products. The complaint is that APVMA should be able to identify and explain the evidence basis for its continuing regulatory confidence in those products, particularly where they operate as benchmarks against which new and alternative technologies are measured.

The central proposition remains:

Registration status is not the same thing as transparent, product-specific, contemporary efficacy evidence.

The Ombudsman should therefore investigate whether APVMA has adequately administered, documented and explained the relationship between its published efficacy framework, legacy product registrations, the 2014 FOI decision, the 2022 proposed amendments and Enviroswim's repeated requests for evidence.

Chapter 5 - The 2014 FOI Decision and Its Significance

5.1 Purpose of this chapter

This chapter examines the significance of the APVMA's 2014 Freedom of Information decision concerning efficacy evidence for named swimming pool and spa sanitiser products.

The 2014 FOI decision is a central feature of this complaint because it appears to record that APVMA did not locate documents within the scope of the request demonstrating that three named registered pool sanitiser products met the APVMA pool and spa sanitiser efficacy guideline.

This chapter does not ask the Commonwealth Ombudsman to treat the 2014 FOI decision as proof that any product is ineffective. Nor does it ask the Ombudsman to conclude that APVMA holds no efficacy evidence for all registered pool and spa sanitisers.

The issue is narrower and more defensible:

The 2014 FOI decision raised a serious unresolved administrative question about whether APVMA could identify guideline-specific efficacy evidence for certain named registered pool and spa sanitiser products.

That unresolved question sits at the heart of this complaint.

5.2 Why the 2014 FOI decision matters

The 2014 FOI decision matters because it appears to expose a gap between three things:

APVMA's published efficacy expectations for pool and spa sanitisers;

the registration or continued registration of certain incumbent sanitiser products;

the documents APVMA could locate when asked for evidence demonstrating that those products met the relevant guideline.

The 2014 FOI request, as finally framed, sought scientific evidence demonstrating the efficacy of three named APVMA-registered pool sanitisers against the APVMA guideline. APVMA refused access on the basis that the documents sought did not exist after searches of product files, chemistry files and raw data did not reveal documentation meeting the request scope.

That is a significant administrative fact.

It does not establish wrongdoing by itself. It does not prove that APVMA acted unlawfully. It does not prove that the products were ineffective. But it does raise a serious question about records, reasons and regulatory evidence.

5.3 Proper scope of the 2014 FOI decision

The 2014 FOI decision records that APVMA did not locate documents within scope showing that three named registered pool sanitiser products met the APVMA pool and spa efficacy guideline.

The 2014 FOI decision does not prove that APVMA holds no efficacy material for every chlorine product or that no legacy sanitiser has any efficacy history. It establishes that, for the three named products and the specific guideline-based request, APVMA did not find documents within scope and relied on the timing of applications or reviews to explain why guideline evidence was not held.

5.4 Relationship between the 2014 FOI decision and APVMA's efficacy guideline

The significance of the 2014 FOI decision depends on its relationship with APVMA's own efficacy framework.

APVMA's pool and spa sanitiser guideline sets out efficacy expectations for relevant products. As addressed in Chapter 4, that framework includes laboratory organisms, target performance characteristics, safety-margin expectations, active-constituent assessment and field-testing requirements.

The 2014 FOI decision is significant because the request was not merely asking for general information about pool chemicals. It was asking for documents demonstrating that named registered products met the APVMA guideline.

The 2014 FOI decision concerned a defined request for three named registered products and the APVMA pool and spa guideline. APVMA refused access because the documents sought did not exist after searches of product files, chemistry files and raw data.

That creates an obvious administrative question:

If APVMA had a published efficacy guideline, and if certain registered products did not have locatable documents showing compliance with that guideline, what was the basis for APVMA's continuing regulatory confidence in those products?

That question remains unanswered.

5.5 APVMA's apparent explanation: timing of applications and reviews

APVMA's statement of reasons explained that the relevant guideline applied only to applications or reviews received or commenced after 1 July 2014, and that no such applications or reviews had occurred for the named products.

This suggests that APVMA's position was not that efficacy was irrelevant. Rather, APVMA appears to have relied on the timing of the guideline and the absence of relevant post-guideline applications or reviews for the named products.

That explanation may be legally significant, but it does not end the administrative issue.

If products registered before the relevant guideline are not required to demonstrate compliance with that guideline unless a new application, variation, review or reconsideration occurs, then APVMA should be able to explain clearly:

what evidence was relied upon when those products were originally registered;

whether that evidence remains available;

whether that evidence is considered equivalent to later efficacy expectations;

whether the products remain accepted because of historical registration rather than current guideline-equivalent evidence;

what information would be sufficient to trigger review or reconsideration.

The 2014 FOI decision therefore does not close the issue. It opens it.

5.6 Registration status is not the same as accessible evidence

This complaint repeatedly draws a distinction between legal registration status and accessible, identifiable efficacy evidence.

A product may remain registered because it was accepted under earlier regulatory arrangements, because no review has been triggered, or because no decision has been made to cancel or suspend it. That is a different question from whether APVMA can now identify and produce the scientific evidence supporting its continued regulatory confidence.

A product can remain registered because it satisfied criteria at the time of registration or because its registration has not been cancelled or reviewed. That does not necessarily mean APVMA holds a modern, guideline-equivalent efficacy package for that product.

That distinction is central to the Ombudsman complaint.

The Ombudsman is not being asked to decide whether registration is legally valid. The Ombudsman is being asked to investigate whether APVMA has adequately explained the evidentiary basis for regulatory confidence when asked directly and repeatedly.

5.7 The legacy-product problem

The 2014 FOI decision is important because it illustrates the broader legacy-product problem.

Legacy products may have entered or remained within the regulatory system before later performance-based expectations were published or applied. APVMA's later correspondence, as summarised in the evidence record, states that registered products do not continually re-demonstrate compliance absent a legislative trigger.

That may be the legal architecture. But it creates an administrative and public-interest question.

If legacy products remain registered without cyclical re-demonstration against contemporary standards, and if those same products are treated in the market or by regulators as benchmark technologies, then APVMA should be able to explain the evidentiary basis for that benchmark status.

The issue is not that every old product must automatically be invalid. The issue is that long-standing registration should not be used as a substitute for transparent evidence when legitimate public-interest questions are raised.

5.8 Why the 2014 FOI decision remains current

The 2014 FOI decision is not merely historical.

It remains current because Enviroswim's 2026 FOI/access request was framed around the question of whether APVMA's evidentiary position had changed since 2014. The chronology records that, in June 2026, a further FOI request was prepared seeking documents held by APVMA concerning efficacy evidence, assessment reports, registration decision records, reliance on historical acceptance, and whether APVMA holds or does not hold efficacy data for registered pool and spa sanitisers.

That is a reasonable follow-up to the 2014 decision.

If APVMA's position in 2014 was that no documents existed within the scope of the request for the named products, then a later request asking whether APVMA had obtained, created, reviewed, relied upon or identified relevant evidence since that date was not speculative. It was a direct attempt to resolve the uncertainty created by APVMA's earlier FOI decision.

The Ombudsman should treat the 2014 and 2026 requests together. They are part of the same evidentiary chain.

5.9 The public-interest significance

The public-interest significance of the 2014 FOI decision is substantial.

Swimming pool and spa sanitiser products are not niche industrial products used only by trained specialists in controlled environments. They are used across residential pools, public aquatic facilities, learn-to-swim centres, hotels, resorts, schools, body corporates, health facilities and other recreational environments.

If APVMA cannot readily identify guideline-specific evidence for certain registered products, then the public-interest question is not merely commercial. It concerns public confidence in the regulatory system.

The public is entitled to assume that registered sanitiser products are supported by an identifiable evidentiary basis. Pool operators, consumers, state health authorities, workplace safety regulators, industry trainers and competitors are entitled to understand whether registration reflects contemporary performance evidence, legacy acceptance, historical registration, literature-based assumptions, overseas data, manufacturer declarations, or some other basis.

The 2014 FOI decision made that question concrete.

5.10 Why the issue is not answered by saying "the products are registered"

One likely answer from APVMA is that the products remain registered and therefore are accepted under the regulatory framework.

That answer is incomplete.

The complaint is not asking whether the products appear on the register. It is asking what evidence or reasoning supports continued confidence in them.

A register entry is an administrative outcome. It is not, by itself, the underlying scientific evidence.

For the Ombudsman, the question is whether APVMA has provided an adequate explanation of the evidentiary basis for that outcome, particularly after being asked repeatedly over many years and after a 2014 FOI decision apparently identified no documents within the request scope for named products.

5.11 Why the issue is not answered by saying "the guideline did not apply"

Another likely answer is that the guideline applied only to applications or reviews received or commenced after a particular date, and therefore did not apply retrospectively to the named products.

That may explain why guideline-specific documents were not located. It does not answer the broader administrative question.

If the guideline did not apply to the named products, APVMA should explain:

what earlier criteria applied;

what evidence was accepted under those earlier criteria;

whether APVMA still holds that evidence;

whether APVMA considers the earlier evidence equivalent, partially equivalent, or not comparable to the later guideline;

whether APVMA has ever assessed whether legacy products should be reviewed in light of later performance expectations;

whether APVMA has publicly explained the difference between legacy acceptance and current guideline-based proof.

This is exactly the kind of administrative clarity the Ombudsman can investigate.

5.12 The evidentiary burden placed on Enviroswim

The 2014 FOI issue also matters because of the apparent evidentiary burden placed on Enviroswim and other alternative technologies.

Enviroswim has been required, in practice, to support its technology through laboratory testing, technical documentation, field performance information and regulatory correspondence. The complaint does not object to evidence-based assessment. To the contrary, Enviroswim supports technology-neutral evidence standards.

The concern is whether comparable evidence expectations have been applied to incumbent products.

Modern applicants and alternative technologies face defined evidentiary expectations, while legacy registered products may remain on the register without cyclical re-demonstration unless a statutory trigger is accepted. This may be lawful, but it creates a public-interest question about whether legacy registration status can fairly operate as the industry benchmark where the current evidence basis is not identifiable or comparable.

It is not an allegation of corruption. It is a question of parity, transparency and good administration.

5.13 The records that should exist or be explained

The 2014 FOI decision gives rise to a practical records question.

If APVMA's continuing confidence in the named products rests on scientific evidence, the relevant records should be capable of identification. If APVMA's confidence rests on history of use, prior registration, external literature, overseas assessments, state health guidance, Australian Standards, label conditions or manufacturer declarations, that should be clearly stated.

The records needed to resolve the issue include full APVMA product evidence files for named legacy sanitisers, current evidence for chlorine, hydrogen peroxide and PHMB against APVMA criteria, laboratory reports, trial protocols, delegate assessments and registration-file extracts.

That is exactly what the Ombudsman should ask APVMA to clarify.

the relevant evidence;

a schedule identifying the relevant evidence;

a clear written statement that no such evidence is held;

a clear explanation of any alternative basis for regulatory confidence.

5.14 The 2014 FOI decision and record-keeping

The 2014 FOI decision also raises a record-keeping issue.

If the documents did not exist within the scope of the request, that may mean several different things:

the evidence was never required;

the evidence was required but not retained;

the evidence existed in a different form or location not captured by the request;

the evidence was held in confidential product files but did not match the guideline-specific wording;

the products were accepted on a different basis from the later guideline;

the search methodology did not identify the relevant records;

the products were never assessed against that specific framework.

Each possibility has different implications.

The Ombudsman should not assume the worst possibility. But the Ombudsman should ask APVMA to explain which possibility is correct.

Good administration requires not only that agencies make decisions, but that they keep, retrieve and explain the records that support those decisions, especially where the subject matter has public-health and market significance.

5.15 The 2014 FOI decision and APVMA's later responses

The 2014 FOI decision becomes even more significant when read with APVMA's later responses.

The chronology records that APVMA later stated products are assessed at registration, registered products do not continually re-demonstrate compliance absent a legislative trigger, and the 2022 proposed amendments did not proceed after consideration of submissions and available evidence.

This later position appears to confirm that legacy products may remain registered without periodic reassessment against later standards unless APVMA accepts that a statutory trigger has arisen.

That is precisely why the 2014 FOI decision matters.

If APVMA cannot locate guideline-specific evidence for certain legacy products, and if those products are not required to re-demonstrate compliance absent a trigger, then the public-interest question becomes:

What mechanism ensures that legacy pool and spa sanitisers continue to meet modern efficacy expectations, or are at least transparently distinguished from products assessed under modern expectations?

That question has not been answered.

5.16 The 2014 FOI decision and the 2022 proposed amendments

The 2014 FOI decision should also be read with the 2022 proposed amendments.

APVMA later consulted on proposed amendments to how certain pool and spa chemicals are assessed. It proposed stronger performance standards in 2022, received published submissions, and later advised that it did not proceed with the proposed amendments.

This matters because the 2022 consultation suggests APVMA itself recognised that clearer performance-based criteria for pool and spa chemicals were worth considering.

The Ombudsman should ask:

Did the 2014 FOI issue influence APVMA's 2022 proposed amendments?

Did APVMA consider whether legacy products lacked guideline-specific evidence?

Did APVMA consider whether proposed performance standards should apply only to new products or also to existing products?

What records explain why the amendments did not proceed?

Were the implications of the 2014 FOI decision considered in that decision-making process?

These are reasonable administrative questions.

5.17 Relevance of the 2014 FOI decision to this complaint

First, as evidence that Enviroswim asked a defined evidence question about named registered products.

Second, as evidence that APVMA did not locate documents within the scope of that request.

Third, as evidence that APVMA relied on the timing of applications or reviews to explain why guideline-specific evidence was not held.

Fourth, as evidence that a real unresolved question existed about legacy products and current evidence expectations.

Fifth, as the basis for Enviroswim's later 2026 request asking whether the evidentiary position had changed since 2014.

5.18 Matters for Ombudsman investigation arising from the 2014 FOI decision

The 2014 FOI decision gives rise to the following issues for Ombudsman investigation:

What exactly was the scope of the 2014 FOI request as finally narrowed?

What were the three named products?

What searches did APVMA conduct?

What files, databases, product records, chemistry files and raw data files were searched?

What did APVMA mean when it stated that the documents sought did not exist?

Did APVMA hold other efficacy material outside the precise scope of the request?

Did APVMA hold historical assessment material for the named products?

If no guideline-specific evidence existed, on what basis did APVMA maintain regulatory confidence in those products?

Did APVMA explain the difference between registration status, historical acceptance and current guideline-equivalent evidence?

Did APVMA later consider the 2014 FOI result when developing the 2022 proposed amendments?

Did APVMA later consider the 2014 FOI result when responding to Enviroswim's 2025 and 2026 correspondence?

Has APVMA ever published guidance explaining how legacy pool and spa sanitiser products are treated when later efficacy expectations are developed?

5.19 Requested findings or recommendations concerning the 2014 FOI decision

Enviroswim requests that the Ombudsman consider recommending that APVMA provide a clear written explanation of the 2014 FOI decision and its continuing significance.

That explanation should identify:

the products covered by the request;

the exact documents sought;

the search steps undertaken;

whether any relevant documents existed outside the final request scope;

whether APVMA holds historical efficacy evidence for those products;

whether APVMA considers those products to meet, not meet, or not require assessment against the later pool and spa efficacy guideline;

whether APVMA's continued confidence in those products rests on historical registration, literature, external standards, overseas data, manufacturer declarations, state health guidance, label requirements or another basis;

whether APVMA has considered a broader review of legacy pool and spa sanitiser products in light of the 2014 FOI outcome.

5.20 Chapter conclusion

The 2014 FOI decision is one of the strongest documentary anchors in this complaint.

The decision does not prove that APVMA acted unlawfully, that any product is ineffective, or that all registered sanitisers lack evidence.

What it does prove is more precise and more useful:

APVMA did not locate documents within the scope of a defined request seeking scientific evidence that three named registered pool sanitiser products met APVMA's pool and spa efficacy guideline.

That fact created a serious unresolved administrative question.

If APVMA could not locate those records, then APVMA should explain what evidence or reasoning supports continued regulatory confidence in those products and comparable legacy sanitiser products. If the products were accepted under earlier arrangements and are not required to re-demonstrate compliance unless a statutory trigger arises, APVMA should explain that plainly.

The Ombudsman should therefore investigate whether APVMA's handling of the 2014 FOI issue, and its later responses to Enviroswim's attempts to clarify the position, was fair, transparent, properly reasoned and consistent with good public administration.

The central proposition remains:

Registration status is not the same thing as identifiable evidence of contemporary efficacy.

Chapter 6 - The 2026 FOI / Agvet Code Response and Access-to-Evidence Problem

6.1 Purpose of this chapter

This chapter examines APVMA's handling of Enviroswim's 5 June 2026 Freedom of Information request and the subsequent redirection of that request into the Agvet Code access pathway.

This is one of the central current issues for the Commonwealth Ombudsman.

The complaint is not simply that APVMA disagreed with Enviroswim. The complaint is that APVMA's handling of the 2026 request appears to have diverted a serious public-interest evidence request away from the FOI process and into a more complex access pathway, without resolving the central question:

Does APVMA hold, has it assessed, or has it relied upon scientific efficacy evidence demonstrating that registered swimming pool and spa sanitiser products meet APVMA's applicable efficacy requirements?

That question remains the core issue.

6.2 The 5 June 2026 FOI request

On 5 June 2026, Enviroswim submitted a Freedom of Information request to APVMA seeking documents concerning efficacy evidence for APVMA-registered swimming pool and spa sanitiser products.

The request sought an updated documentary record from 15 August 2014 to the date of the request. It was expressly linked to APVMA's earlier 2014 FOI decision concerning efficacy evidence for registered pool and spa sanitisers. Enviroswim's covering email identified that the request concerned the scientific and regulatory basis for pool and spa sanitiser registration in Australia, including products used in residential pools, public aquatic facilities, learn-to-swim centres, schools, hotels, resorts, body corporates, health and aged-care facilities, and commercial recreational environments.

The request also expressly raised public-interest grounds. Enviroswim stated that the documents sought were relevant to public health, workplace exposure, consumer protection, aquatic facility safety and regulatory transparency.

That framing is significant. This was not a narrow request for commercial intelligence. It was a request for documents bearing on the evidentiary basis for Commonwealth regulation of products widely used in public and private aquatic environments.

6.3 The request was directed to documents, not argument

The 2026 request did not ask APVMA to create a new scientific opinion for Enviroswim.

It sought documents held by APVMA from 15 August 2014 onward that contained, referred to, assessed, summarised, reviewed, identified, relied upon, or recorded the existence or non-existence of scientific evidence or efficacy data supporting the registration, continued registration, renewal, acceptance or regulatory confidence in APVMA-registered swimming pool or spa sanitiser products. APVMA itself summarised the request in those terms in its 11 June 2026 response.

That distinction is important.

Enviroswim was not asking APVMA to enter into debate. It was asking APVMA to identify the documentary record. That is precisely the kind of question that a regulator should be able to answer clearly where public-health and consumer-confidence issues are involved.

6.4 The relationship to the 2014 FOI decision

APVMA's 11 June 2026 response expressly acknowledged that Enviroswim's 2026 request was made in the context of the earlier 2014 FOI decision, in which access had been refused on the basis that documents demonstrating efficacy did not exist. APVMA also acknowledged that the 2026 request sought to determine whether the evidentiary position had changed since that time.

This acknowledgement is important.

It means APVMA understood the purpose of the request. The request was not random. It was a direct follow-up to an unresolved historical issue: whether APVMA had, since 2014, obtained, created, reviewed, relied upon or identified efficacy evidence supporting registered pool and spa sanitiser products.

The Ombudsman should treat that acknowledgement as significant. APVMA knew that Enviroswim was asking whether the 2014 evidentiary position had changed.

6.5 APVMA's 11 June 2026 response

On 11 June 2026, APVMA responded that no right of access arose under the Freedom of Information Act.

APVMA stated that the FOI Act does not provide a right to request access to documents that are available under another legislative access scheme. It relied on section 12(1)(b) of the FOI Act and referred to sections 8W, 17(5) and

18(5) of the Agricultural and Veterinary Chemicals Code. APVMA stated that a person may apply under the Agvet Code for a copy of, or extract of, a document relating to an approved active constituent or registered chemical product.

APVMA then stated that, having regard to the nature of the documents sought, being documents relating to registered chemical products, access was provided for under the Agvet Code. APVMA advised that no right of access arose under the FOI Act and that APVMA would not process the request under the FOI Act.

For the Ombudsman complaint, the issue is not framed as a technical legal appeal against APVMA's interpretation. The issue is whether APVMA's handling was administratively fair, practical, properly reasoned and consistent with the public-interest nature of the request.

6.6 The problem with the response

The problem is that APVMA's response addressed the access pathway but did not resolve the evidence question.

APVMA did not say:

whether it held the requested efficacy evidence;

whether it had searched for the requested evidence;

whether the evidence existed only in confidential product files;

whether legacy products had been accepted on historical or non-guideline bases;

whether parts of the request concerned internal policy or general regulatory reasoning not tied to a particular product;

whether any part of the request remained capable of being processed under FOI;

whether the response was a formal FOI decision with review rights.

Instead, APVMA effectively redirected Enviroswim to the Agvet Code pathway.

That redirection may have a legislative basis. But the Ombudsman should investigate whether, in practical administrative terms, it advanced or frustrated access to the regulatory evidence being sought.

6.7 The Agvet Code pathway concern

APVMA advised that an Agvet Code request would be the more appropriate access pathway. It also advised that the requester should clearly identify the specific information required and limit the scope to reduce processing time and charges. APVMA further noted that access under the Agvet Code may be refused in certain circumstances, including where documents contain confidential commercial information, protected data, personal information, or material affecting security or defence.

That advice raises an administrative concern.

The request was not simply for private product data. It also sought documents concerning APVMA's regulatory reasoning, internal scientific reviews, consideration of whether efficacy data was required or waived, reliance on historical acceptance, prior registration, Australian Standards, state health guidelines, manufacturer declarations, and whether APVMA had searched for or been unable to locate evidence.

Some of those documents may relate to registered products. But others may concern APVMA's general regulatory position, internal policy, briefing material, search records, or reasons for maintaining confidence in legacy product categories.

The Ombudsman should investigate whether APVMA too readily characterised the entire request as falling outside FOI.

6.8 Enviroswim's constructive response

Enviroswim did not simply reject APVMA's response.

On 11 June 2026, Enviroswim replied constructively. It noted APVMA's position that documents relating to registered chemical products should be sought under the Agvet Code rather than FOI. Enviroswim also noted APVMA's acknowledgement that the request was made in the context of the 2014 FOI decision and sought to determine whether the evidentiary position had changed.

Enviroswim then stated that, without conceding that all documents sought were excluded from the FOI Act, it was prepared to proceed constructively and requested that APVMA treat the existing request, including supporting attachments already provided, as an Agvet Code request to the extent that the documents sought related to approved active constituents or registered chemical products.

That response is important because it shows that Enviroswim did not refuse to engage with the process. It attempted to preserve the central issue while cooperating with APVMA's preferred pathway.

6.9 Enviroswim did not withdraw the FOI request

Enviroswim made an important reservation in its 11 June 2026 response.

It expressly stated that it did not withdraw the original FOI request. Instead, Enviroswim asked APVMA to identify which parts it proposed to process under the Agvet Code and which, if any, it proposed to process under the FOI Act.

This is a critical point for the Ombudsman.

Enviroswim recognised that some documents might properly fall within the Agvet Code access pathway. But it also asked APVMA to identify whether other parts of the request remained capable of being processed under FOI. This was especially relevant to internal policy documents, briefing notes, documents recording searches undertaken in response to previous FOI requests, and correspondence or briefing material concerning APVMA's general regulatory position on efficacy evidence for swimming pool and spa sanitisers.

That was a fair and reasonable position. APVMA should be asked whether it properly considered this distinction.

6.10 Request for formal decision and review rights

Enviroswim also asked APVMA to confirm whether the 11 June 2026 email was intended to constitute a formal FOI decision if APVMA maintained that no right of access arose under the FOI Act for the whole request. If so, Enviroswim requested the relevant statement of reasons and review rights.

This is another important administrative issue.

Where an agency tells a requester that it will not process a request under FOI, the requester should not be left uncertain as to whether that communication is a formal decision, whether review rights apply, or whether the matter remains informal correspondence.

The Ombudsman should investigate whether APVMA provided procedural clarity.

6.11 The document categories remained clear

Enviroswim's 11 June 2026 response restated the categories of documents sought. Those categories included efficacy test reports, microbiological efficacy reports, scientific assessment reports, product performance assessments, registration decision records, internal scientific reviews, internal memoranda concerning efficacy or product performance claims, and documents identifying whether efficacy data was required, supplied, waived, not required, unavailable, not held or not considered necessary.

The request also sought documents identifying reliance on grandfathering, historical acceptance, prior registration, label claims, overseas data, manufacturer declarations, Australian Standards, state health guidelines or any other external standard or source. It further sought documents recording APVMA's position on whether efficacy of registered pool and spa sanitiser products is assessed by APVMA, state health departments, Australian Standards, registrants, manufacturers or another body.

That is the exact evidence problem.

If APVMA's continuing regulatory confidence rests on one of those bases, the regulator should be able to say so clearly.

6.12 The central issue was preserved

Enviroswim's 11 June 2026 response concluded by stating that it remained willing to consult with APVMA to refine the request in a practical way, provided the scope continued to address the central issue: whether APVMA holds, has assessed, or has relied upon efficacy evidence supporting the registration or continued registration of swimming pool and spa sanitiser products since the 2014 FOI decision.

It shows that Enviroswim was not trying to make the process unmanageable. It was willing to refine the request. But it was not willing to allow refinement to avoid the central evidence question.

6.13 The 24 June 2026 spreadsheet extract

On 24 June 2026, APVMA supplied a spreadsheet extract of product and data-record references after conducting a structured search. Enviroswim's evidence-status statement records that APVMA described the extract as identifying efficacy studies relevant to pool and spa products.

However, the same evidence-status statement records that the spreadsheet extract did not provide the underlying reports, study methods, results, laboratory test conditions or APVMA assessment conclusions. It therefore did not

demonstrate compliance with APVMA's applicable efficacy requirements and did not establish the relevant organism, performance measure, required log reduction, contact time, sanitiser concentration, residual, test-water conditions, safety margin, field-trial outcome or APVMA conclusion for the relevant sanitising systems.

A spreadsheet identifying records is not the same as producing or identifying the underlying scientific evidence and APVMA assessment conclusions.

6.14 Why the spreadsheet did not resolve the issue

The 24 June 2026 spreadsheet shows that APVMA identified product and data-record references through a structured search.

But it did not answer the narrower question.

The question was whether APVMA holds scientific efficacy reports, laboratory studies, assessment reports, internal scientific reviews, decision records or other documentary evidence demonstrating that chlorine-based sanitisers, hydrogen peroxide and PHMB hydrochloride meet APVMA's applicable efficacy requirements.

The evidence-status statement records that, as at 24 June 2026, APVMA had not produced any underlying scientific efficacy reports, laboratory studies, validation reports, APVMA scientific assessments, reviews or decision records demonstrating that those systems meet APVMA's applicable efficacy requirements.

APVMA has not produced the underlying evidence and assessment material needed to demonstrate compliance with its applicable efficacy requirements.

6.15 The narrowed request of 24 June 2026

After receiving the spreadsheet extract, Enviroswim wrote to APVMA again on 24 June 2026 and narrowed the question.

Enviroswim stated that it was not seeking a list of companies, trade names, formulations, product registrations or all data held in relation to individual branded pool products. Instead, it confined the request to whether APVMA holds scientific efficacy evidence for three sanitising active constituents or systems used in swimming pool and spa sanitation: chlorine-based sanitisers, hydrogen peroxide, and PHMB hydrochloride.

Enviroswim asked APVMA to provide or identify, for each of those systems:

the applicable APVMA efficacy guideline, performance criterion, test standard or assessment framework;

the underlying scientific efficacy reports, laboratory studies, validation reports or equivalent evidence held by APVMA;

any APVMA assessment, review, evaluation or decision record considering whether the evidence meets the applicable efficacy requirement;

the date on which the evidence was received, assessed or relied upon;

confirmation whether APVMA considers the evidence demonstrates compliance;

clear written confirmation if APVMA holds no such evidence.

This narrowed request was reasonable. It focused the issue down to the exact documentary answer required.

6.16 Why the narrowed request matters

The narrowed request is important because it removes any suggestion that Enviroswim was merely seeking broad discovery or an unmanageable volume of product files.

By 24 June 2026, the question had become very simple:

For chlorine-based sanitisers, hydrogen peroxide and PHMB hydrochloride, what evidence and assessment records does APVMA hold or rely upon to show that these systems meet APVMA's applicable pool and spa efficacy requirements?

That is a legitimate regulatory question.

If APVMA holds the evidence, it should identify it or explain why it cannot be released. If APVMA does not hold the evidence, it should say so. If APVMA relies on history of use, overseas data, state health requirements, Australian Standards, manufacturer declarations or some other basis, it should say so.

What is not administratively satisfactory is a response that leaves the requester with a spreadsheet but no underlying evidence, no assessment conclusions and no clear explanation of the basis for regulatory confidence.

6.17 The access-to-evidence problem

The access-to-evidence problem has four parts.

First, APVMA redirected the request from FOI to the Agvet Code pathway.

Second, the Agvet Code pathway may involve fees, narrower identification requirements and exclusions for confidential commercial information or protected data.

Third, the material eventually supplied, as recorded in Enviroswim's evidence-status statement, did not include the underlying scientific reports or APVMA assessment conclusions needed to answer the central question.

Fourth, Enviroswim's request included not only product-specific materials but also broader regulatory records, internal policy documents, search records and documents explaining whether APVMA relies on historical acceptance or other external standards. Enviroswim specifically asked APVMA to identify which parts should remain under FOI, if any.

Taken together, these matters raise a serious administrative issue.

The Ombudsman should investigate whether APVMA's handling assisted access to regulatory evidence or created a procedural obstacle to understanding the evidence base.

6.18 The distinction between confidential product data and public regulatory reasoning

Some product-level data held by APVMA may be confidential, protected or subject to statutory restrictions. Enviroswim does not seek unlawful disclosure of genuinely protected confidential commercial information.

However, public regulatory reasoning is different.

The public should be able to understand, at least at a category level:

whether APVMA holds efficacy evidence;

what type of evidence it is;

whether APVMA has assessed it;

whether APVMA considers it demonstrates compliance;

whether legacy products were assessed against current or earlier criteria;

whether reliance is placed on external standards or historical acceptance;

whether APVMA's continuing confidence is evidence-based, assumption-based, or registration-status-based.

The Ombudsman should investigate whether APVMA has drawn this distinction properly.

6.19 Procedural fairness and practical access

Good administration requires more than identifying a technical access pathway.

Where a requester raises a serious public-interest issue, an agency should help identify the practical route to the information, clarify scope, separate documents that fall under different access regimes, explain charges, identify exclusions, provide reasons and preserve review rights.

Enviroswim specifically asked APVMA to confirm the commencement fee, estimate likely further charges, advise whether any part of the request was too broad or unclear, and state whether APVMA proposed to exclude any category of document from processing and the basis for doing so.

Those requests were practical and reasonable. They were aimed at making the process workable.

The Ombudsman should ask whether APVMA provided adequate procedural assistance.

6.20 The unresolved status after the 9 July 2026 exchange

As at 24 June 2026, the position recorded by Enviroswim was carefully limited.

The evidence-status statement says that APVMA had not produced to Watertech / Enviroswim any underlying scientific efficacy reports, laboratory studies, validation reports, APVMA scientific assessments, reviews or decision records demonstrating that chlorine-based sanitisers, hydrogen peroxide or PHMB hydrochloride meet APVMA's applicable efficacy requirements. It also states that this does not mean APVMA necessarily holds no relevant evidence and does not allege that any specific registered product is ineffective or unlawful.

The complaint remains confined to the evidence and records APVMA has produced or specifically identified.

The complaint is not that APVMA has no evidence. The complaint is that APVMA has not produced or clearly identified the evidence and assessment records necessary to resolve the question.

APVMA's response of 9 July 2026 confirmed that efficacy is considered in relation to individual chemical products and their approved uses. It also stated that APVMA does not maintain a separate category-level body of records for chlorine-based sanitisers, hydrogen peroxide products or PHMB hydrochloride products independently of specific product assessments.

APVMA characterised the 24 June spreadsheet extract as representing the efficacy studies identified through its product-specific searches. The extract itself did not contain the underlying reports, study methods, organisms tested, exposure times, measured results or APVMA assessment conclusions.

Enviroswim responded on the same day by clarifying the distinction between a record index and a scientific efficacy report, narrowing the request to underlying product-specific studies and APVMA assessment material, and accepting the redaction of confidential and protected information.

Accordingly, the limited position remains that APVMA has not produced or specifically identified the underlying scientific reports and assessment conclusions necessary to verify what was tested, which criteria were applied and whether the relevant products were found to satisfy those criteria.

6.21 Administrative issues for the Ombudsman

The 2026 FOI / Agvet Code process raises the following issues for Ombudsman investigation:

Was APVMA correct to treat the whole request as excluded from FOI?

Did APVMA properly consider whether some parts of the request concerned internal policy, search records, general regulatory reasoning or historical decision-making capable of being processed under FOI?

Did APVMA provide a formal decision, reasons and review rights if it maintained that no right of access arose under FOI?

Did APVMA adequately assist Enviroswim to refine the request while preserving the central evidence question?

Did APVMA's Agvet Code pathway provide a practical means of accessing public-interest regulatory evidence?

Did the 24 June 2026 spreadsheet extract answer the request, or merely identify product/data-record references?

Was APVMA's description of the 24 June spreadsheet extract as representing the identified efficacy studies sufficiently clear and accurate when the underlying scientific reports themselves were not supplied?

Which specific product reports, laboratory studies, APVMA assessments and decision records correspond to the references contained in the spreadsheet extract?

Does APVMA hold the underlying reports, study methods, test results, laboratory conditions and assessment conclusions referred to by the spreadsheet?

If APVMA holds those materials but cannot disclose them, can it provide a non-confidential schedule, summary or statement of regulatory reasoning?

If APVMA does not hold those materials, what is the basis for continuing regulatory confidence in the relevant sanitiser systems?

Has APVMA clearly explained whether chlorine-based sanitisers, hydrogen peroxide and PHMB hydrochloride are supported by contemporary efficacy evidence, historical acceptance, prior registration, external standards, manufacturer declarations, state health requirements or another basis?

6.22 Requested Ombudsman action

Enviroswim requests that the Ombudsman consider recommending that APVMA:

provide a clear statement explaining which parts of the 5 June 2026 request were treated as excluded from FOI and why;

identify whether any parts of the request remain capable of being processed under FOI;

provide or confirm review rights in relation to the decision not to process the request under FOI;

provide a schedule of documents identified under the Agvet Code process, distinguishing between underlying scientific reports, APVMA assessment records, product files, literature references, internal policy records and administrative search records;

clarify whether the 24 June 2026 material was an index or extract of records, or the underlying efficacy studies themselves, and identify the specific underlying reports and APVMA assessments corresponding to the listed records;

provide a non-confidential explanation of the evidence basis for APVMA's regulatory confidence in chlorine-based sanitisers, hydrogen peroxide and PHMB hydrochloride;

state whether APVMA has assessed those systems against its applicable pool and spa efficacy requirements;

state whether APVMA relies instead on historical acceptance, prior registration, literature, overseas data, state health requirements, Australian Standards, manufacturer declarations or another basis;

explain what further process, if any, Enviroswim must follow to obtain the actual evidence and assessment records, without being forced into unnecessary duplication, excessive fees or procedural uncertainty.

6.23 Chapter conclusion

The 2026 FOI / Agvet Code exchange is one of the clearest current examples of the administrative problem.

Enviroswim asked a defined public-interest question: whether APVMA holds, has assessed or has relied upon efficacy evidence supporting the registration or continued registration of pool and spa sanitiser products since the 2014 FOI decision.

APVMA acknowledged the nature of the request and its relationship to the 2014 decision, but declined to process the request under FOI and directed Enviroswim to the Agvet Code pathway.

Enviroswim then cooperated with that pathway while expressly preserving its FOI position and asking APVMA to identify which parts of the request, if any, remained capable of being handled under FOI.

The later spreadsheet extract did not provide the underlying reports, study methods, results, test conditions or APVMA assessment conclusions needed to answer the central evidence question.

The Ombudsman should therefore investigate whether APVMA's handling of the 2026 access-to-evidence request was fair, practical, transparent, properly reasoned and consistent with good public administration.

The central proposition remains:

A procedural access pathway is not a substitute for a clear answer to a legitimate public-interest evidence question.

Chapter 7 - Legacy Product Regulation, Regulatory Parity and the Evidentiary Baseline

7.1 Purpose of this chapter

This chapter addresses the central regulatory parity issue raised by Enviroswim's long-running correspondence with APVMA.

The issue is not whether older products can lawfully remain on the APVMA Register. Nor is the issue whether every registered product must automatically be reassessed whenever guidance changes. Those are matters for the statutory framework administered by APVMA.

The issue for the Commonwealth Ombudsman is different.

The issue is whether APVMA has adequately explained the evidentiary baseline that applies to legacy registered swimming pool and spa sanitiser products, particularly where those products continue to operate as practical market and regulatory benchmarks against which new or alternative technologies are compared.

The central proposition is:

If modern applicants or alternative technologies are expected to demonstrate efficacy against current performance expectations, while older registered products remain accepted without equivalent visible evidence, APVMA should clearly explain the difference and identify the evidence or reasoning supporting continued regulatory confidence.

7.2 Meaning of "legacy product" in this complaint

For the purposes of this complaint, the term legacy product means a product or product class that was registered, accepted, renewed or treated as established under earlier regulatory arrangements, before later or more detailed APVMA efficacy guidance, performance expectations, or proposed performance-based criteria were introduced.

The term is not used as a legal label. It is used to describe the practical administrative problem created when products registered under earlier arrangements remain on the register while newer or alternative technologies face more explicit contemporary evidence expectations.

Modern applicants and alternative technologies face defined evidentiary expectations, while legacy registered products may remain on the Register without cyclical re-demonstration unless a statutory trigger is accepted.

7.3 APVMA's stated position on registered products

APVMA's response under Ref MC26-000919 states that, under the Agricultural and Veterinary Chemicals Code Act 1994, each product is assessed on its own merits against the statutory criteria applying at the time an application is registered. APVMA states that, based on the information and data provided, the delegate determines whether the statutory requirements are met.

APVMA further states that once registered, a product remains on the Register unless its registration is not renewed, or unless APVMA becomes aware of information indicating that the product may no longer satisfy the statutory criteria and regulatory action is warranted. APVMA expressly states that the legislative framework does not require registered products to continually re-demonstrate compliance in the absence of such a trigger.

This is APVMA's stated position.

7.4 Why APVMA's position does not resolve the complaint

APVMA's position explains part of the legal framework. It does not resolve the administrative concern.

The unanswered issue is this:

If a product remains registered because it was assessed at an earlier point in time and no later statutory trigger has been accepted, what evidence does APVMA hold or rely upon today to support continued regulatory confidence in that product or product class?

That question matters because registration status is used in the real world as a signal of legitimacy, safety, efficacy and regulatory acceptance. It influences consumers, pool builders, service technicians, public aquatic operators, state health authorities, industry bodies, insurers and competitors.

A statement that a product remains registered does not, by itself, identify the evidence supporting that status.

7.5 Registration status versus evidentiary baseline

This complaint draws a critical distinction between registration status and the evidentiary baseline.

Registration status answers the question:

Is the product currently on the APVMA Register?

The evidentiary baseline answers a different question:

What scientific evidence, assessment material, regulatory reasoning or historical basis supports APVMA's confidence that the product is effective for its intended pool or spa sanitising purpose?

Those two matters should not be collapsed into one.

A product can remain registered because it satisfied criteria at the time of registration or because its registration has not been cancelled or reviewed. That does not necessarily mean APVMA holds a modern, guideline-equivalent efficacy package for that product.

7.6 The problem created by older products remaining as benchmarks

Traditional chlorine-based products, bromine products, hydrogen peroxide products, PHMB/biguanide products, salt-chlorination systems and other incumbent sanitiser systems may be treated in practice as benchmark technologies.

That benchmark status has consequences.

If alternative technologies are compared against incumbent products, or if incumbent products are assumed to represent the standard regulatory position, then the evidence supporting those incumbent products must be capable of scrutiny.

The issue is not that long-established products should be presumed ineffective. The issue is that long-established use should not become a substitute for transparent evidence where a regulator has been repeatedly asked to identify the evidentiary basis for regulatory confidence.

The issue is that long-established use should not become a substitute for transparent evidence where a regulator has been repeatedly asked to identify the evidentiary basis for regulatory confidence.

7.7 Regulatory parity

Regulatory parity means that comparable products or technologies should be treated according to comparable evidence principles, unless there is a clear and rational reason for different treatment.

That does not mean every product must be tested in exactly the same way. A chlorine product, a hydrogen peroxide product, a PHMB product, a salt-chlorination system and a multi-barrier alternative system may require different technical evaluation.

But the administrative principle should be the same:

Each product or product class should have an identifiable basis for efficacy confidence, and APVMA should be able to explain that basis.

Where different evidence pathways apply, those differences should be transparent, rational and recorded.

7.8 The apparent imbalance

The apparent imbalance is this:

APVMA's published guidance sets out detailed efficacy expectations for new pool and spa sanitiser products.

APVMA states that existing products are not required to continually re-demonstrate compliance unless a trigger arises.

The 2014 FOI decision records that APVMA did not locate documents within scope showing that three named registered products met the APVMA pool and spa guideline.

APVMA later proposed but did not proceed with 2022 amendments concerning performance standards for pool and spa chemicals.

Enviroswim has repeatedly asked for the scientific evidence supporting registered pool and spa sanitisers, including legacy products, but says the central evidence question remains unresolved.

That combination raises a serious public-interest question about whether legacy products and newer technologies are being held to equivalent evidentiary standards.

7.9 The 2014 FOI decision as evidence of the baseline problem

The 2014 FOI decision is significant because it exposed the practical problem.

The 2014 request, as finally framed, sought scientific evidence demonstrating the efficacy of three named APVMA-registered pool sanitisers against the APVMA guideline. APVMA refused access on the basis that the documents sought did not exist after searches of product files, chemistry files and raw data did not reveal documentation meeting the request scope.

But it does prove that, for a defined request concerning three named products and the APVMA guideline, APVMA did not locate the requested documents.

That is enough to justify Ombudsman investigation into the evidentiary baseline.

7.10 The 2026 APVMA position confirms the structure of the issue

APVMA's 2026 correspondence confirms the structure of the issue by stating that existing registered products are not required to continually re-demonstrate compliance absent a statutory trigger.

That means the evidentiary status of older products may depend heavily on:

what evidence was supplied at original registration;

whether APVMA still holds that evidence;

whether the evidence is comparable to current expectations;

whether APVMA has ever reviewed the product class;

whether any later information has been treated as a trigger;

whether APVMA has decided that the existing evidence remains adequate.

The complaint asks the Ombudsman to investigate whether APVMA has adequately answered those questions.

7.11 The 2022 proposed amendments

The 2022 proposed amendments are important because they suggest APVMA itself considered whether clearer performance-based criteria for pool and spa chemicals were warranted.

APVMA publicly proposed to amend the Efficacy Criteria Determination 2014 to include specific performance standards for pool and spa sanitisers. APVMA later stated that, after considering submissions and available evidence, it did not proceed with the proposed amendments at that time.

APVMA's MC26-000919 response similarly states that the 2022 consultation considered whether changes to guidance for future regulatory decisions were warranted, that submissions were considered, and that APVMA did not proceed with the proposed amendments because it considered the existing legislative framework and guidance continued to provide an appropriate basis for assessing efficacy.

The Ombudsman should ask APVMA to produce the reasons and records behind that decision.

7.12 Why the 2022 decision matters to regulatory parity

The 2022 decision matters because it goes directly to whether the regulatory framework has a clear enforceable evidentiary baseline.

If APVMA considered stronger or more specific performance standards, received submissions, and then did not proceed, the public-interest questions are:

What scientific advice supported the decision not to proceed?

What internal assessment was undertaken?

Were legacy products considered?

Were alternative technologies considered?

Did APVMA consider whether the decision would preserve an imbalance between legacy products and new applicants?

Did APVMA consider whether existing guidance was sufficiently transparent and enforceable?

Did APVMA consider the implications of the 2014 FOI decision?

Those are administrative questions, not technical attacks.

7.13 The practical market effect of APVMA registration

In the swimming pool industry, APVMA registration can operate as a practical gatekeeper.

A product's regulatory status may affect:

whether pool builders recommend it;

whether service technicians install or maintain it;

whether public facilities consider it acceptable;

whether industry bodies include it in guidance;

whether consumers trust it;

whether competitors criticise it;

whether insurers, certifiers or regulators accept it.

For that reason, unequal access to regulatory confidence can have commercial and public-interest consequences.

If legacy chemical products are treated as default accepted technologies, while alternative products are required to repeatedly prove themselves against modern evidence expectations, then APVMA should be able to explain the basis for that difference.

7.14 Regulatory parity does not require identical treatment

Regulatory parity does not require APVMA to pretend that all technologies are identical. Chlorine, bromine, hydrogen peroxide, PHMB, salt chlorination, copper/silver ionisation, oxidation and ultrasonic systems may differ in mechanism, residual behaviour, organism response, dosing method, by-products, measurement methods and operational management.

Different technologies may therefore require different forms of evidence.

But the differences should be scientific, transparent and documented.

The complaint is not that APVMA must apply identical tests to every technology. The complaint is that APVMA should identify the evidentiary basis for each accepted pathway and explain why any differences are justified.

7.15 Historical acceptance as an evidentiary category

APVMA may rely, at least in part, on historical use, literature, overseas standards, OECD guidance, state health requirements, Australian Standards, manufacturer data or earlier registration assessments.

Any of those may be legitimate in the right context.

But they are not self-explanatory.

If APVMA relies on historical acceptance, it should say so. If it relies on overseas literature, it should identify the literature. If it relies on earlier registration files, it should confirm whether those files contain laboratory or field efficacy evidence. If it relies on state health standards, it should explain how those standards relate to APVMA's own statutory efficacy role.

The Ombudsman should ask APVMA to provide a non-confidential evidence-category statement for major sanitiser classes.

7.16 The need for an evidence-category statement

A practical remedy would be for APVMA to provide an evidence-category statement for registered pool and spa sanitiser product classes.

Such a statement could identify, without necessarily disclosing confidential commercial information:

Product class	Evidence basis APVMA relies upon	Whether APVMA holds product-specific efficacy evidence	Whether assessed against current guideline	Whether legacy acceptance applies
Chlorine-based sanitisers	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
Bromine-based sanitisers	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
Hydrogen peroxide	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
PHMB / biguanide	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
Salt-chlorination products	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
Mineral/salt systems	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
Alternative / combined systems	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA

This would not require APVMA to disclose protected commercial data. It would require APVMA to explain the type of evidence and reasoning supporting regulatory confidence.

7.17 The evidentiary baseline and public confidence

The evidentiary baseline matters because public confidence depends on more than agency assurance.

Consumers and pool operators are entitled to understand whether regulatory confidence is based on:

current APVMA assessment;
 earlier APVMA assessment;
 scientific literature;
 international standards;
 OECD guidance;
 state health standards;
 historical use;

manufacturer data;

field trials;

product labels;

absence of adverse information;

non-reconsideration due to no accepted trigger.

Each of these is different.

The public-interest problem arises when all of them are collapsed into a simple statement that a product is "registered" or "accepted."

7.18 The impact on innovation

The apparent evidentiary imbalance may have a direct effect on innovation.

A new or alternative technology must commonly overcome scepticism, produce technical evidence, satisfy regulators, answer industry criticism, and compete against long-established products whose evidentiary history may not be equally visible.

That does not mean new technologies should receive easier treatment. They should not.

But if evidence standards are used to test new entrants, the evidence basis for incumbent benchmarks should also be transparent.

Enviroswim has repeatedly raised concerns about grandfathered chemical sanitisers, the evidentiary burden on innovation, chlorine, hydrogen peroxide, PHMB and the lack of equivalent contemporary proof for legacy products.

That is the regulatory parity problem in practical form.

7.19 Why this is a proper Ombudsman issue

This is a proper Ombudsman issue because it concerns administration, reasons, records, transparency and fairness.

The Ombudsman is not being asked to determine whether chlorine works, whether hydrogen peroxide works, whether PHMB works, or whether Enviroswim should be preferred.

The Ombudsman is being asked to investigate whether APVMA has properly administered the evidentiary distinction between:

products assessed under current expectations;

products assessed under earlier expectations;

products retained because no reconsideration trigger has been accepted;

products treated as industry benchmarks;

products required to provide modern performance evidence.

That is a matter of good public administration.

7.20 What APVMA should have explained

In response to Enviroswim's repeated correspondence, APVMA could reasonably have been expected to provide a structured explanation addressing:

which current efficacy requirements apply to new pool and spa sanitiser products;

which requirements applied to older registered products at the time of registration;

whether APVMA still holds the evidence submitted for those older products;

whether older products have ever been assessed against later guidance;

whether APVMA considers older evidence equivalent to current expectations;

whether APVMA relies on literature, OECD guidance, overseas standards, state health rules or historical use;

what information would be sufficient to trigger reconsideration;

why the 2022 proposed amendments did not proceed;

whether APVMA accepts that registration status can be misrepresented as proof of modern guideline-equivalent efficacy.

The complaint is that this clear evidentiary explanation has not been provided.

7.21 Questions for Ombudsman investigation

The Ombudsman should be asked to investigate the following questions:

Does APVMA distinguish internally between legal registration status and contemporary efficacy evidence?

Does APVMA hold product-specific efficacy evidence for legacy registered pool and spa sanitiser products?

Does APVMA hold laboratory and field-trial evidence comparable to what its current guidance expects of new applicants?

Were legacy products ever assessed against APVMA's published pool and spa efficacy guideline?

If not, what evidence basis supports continued regulatory confidence?

Does APVMA rely on historical acceptance, overseas literature, OECD guidance, state health requirements, Australian Standards, manufacturer declarations or another basis?

Has APVMA ever prepared a product-class evidence map for pool and spa sanitisers?

Has APVMA considered whether the 2014 FOI decision raised a systemic evidence issue?

Has APVMA considered whether Enviroswim's repeated correspondence and technical material should be treated as a possible trigger for reconsideration?

Did APVMA consider the impact of legacy-product treatment on innovation and regulatory parity?

Did APVMA consider whether the 2022 proposed amendments were necessary to close an evidentiary or enforceability gap?

Has APVMA provided adequate reasons for maintaining the current approach?

7.22 Requested findings or recommendations

Enviroswim requests that the Ombudsman consider recommending that APVMA:

prepare a technology-neutral evidence-category statement for registered swimming pool and spa sanitiser products;

identify whether major product classes are supported by current APVMA assessment, historical assessment, scientific literature, overseas data, manufacturer data, state health requirements, Australian Standards, historical use, or another basis;

identify whether APVMA holds laboratory and field efficacy evidence for chlorine-based sanitisers, bromine products, hydrogen peroxide, PHMB/biguanide systems, salt-chlorination products and mineral/salt systems;

explain whether legacy registered products have ever been assessed against current or later APVMA pool and spa efficacy guidance;

explain what information is sufficient to trigger reconsideration of a registered pool or spa sanitiser product;

publish guidance explaining the distinction between registration status and contemporary guideline-equivalent efficacy evidence;

provide the records and reasons explaining why the 2022 proposed amendments did not proceed;

consider convening an independent expert review into the evidentiary baseline for registered pool and spa sanitiser products.

7.23 Chapter conclusion

The legacy-product issue is the heart of the Ombudsman complaint.

APVMA's own correspondence confirms that registered products are assessed at the time of registration and are not required to continually re-demonstrate compliance absent a statutory trigger.

That may be the legislative position. But it creates a serious administrative question where older products continue to act as regulatory and market benchmarks while newer or alternative technologies face modern evidence expectations.

The complaint does not ask the Ombudsman to invalidate legacy registrations. It asks the Ombudsman to investigate whether APVMA has adequately explained the evidence basis for continued regulatory confidence in those products.

The central proposition remains:

Legacy registration may explain why a product remains on the Register. It does not, by itself, explain the evidence basis on which that product continues to be treated as an effective public-health sanitiser.

That is the evidentiary baseline problem. That is the regulatory parity problem. And that is a proper matter for Ombudsman investigation.

Chapter 8 - The 2022 Proposed Amendments and Consultation Transparency Issue

8.1 Purpose of this chapter

This chapter examines APVMA's 2022 public consultation titled "Proposed amendments to how the efficacy of certain pool and spa chemicals is assessed" and the later APVMA position that the proposed amendments did not proceed.

The 2022 consultation is significant because APVMA itself publicly identified that the existing Agricultural and Veterinary Chemicals Code (Efficacy Criteria) Determination 2014 did not include specific performance-based criteria against which the efficacy of products, including pool and spa sanitisers, were compared. APVMA then proposed to amend that determination to include specific performance standards for certain product types, including pool and spa sanitisers. (APVMA)

For Enviroswim, this is a critical transparency issue.

The Ombudsman is not being asked to decide whether APVMA should have adopted the 2022 amendments. The issue is whether APVMA has adequately explained:

why the amendments were proposed;

what problem they were intended to solve;

what submissions and evidence were considered;

why the amendments did not proceed;

whether the decision not to proceed left unresolved issues concerning legacy products, evidentiary parity and public confidence.

8.2 Why the 2022 consultation matters

The 2022 consultation matters because it was not initiated by Enviroswim. It was an APVMA public consultation.

That is important.

APVMA was not merely responding to Enviroswim's complaint. APVMA itself identified a proposed regulatory change concerning how pool and spa chemical efficacy would be assessed.

The consultation page stated that guidance on demonstrating the efficacy of pool and spa sanitisers was already available on APVMA's website. However, APVMA also stated that the current Efficacy Criteria Determination 2014 did not include specific performance-based criteria against which the efficacy of products, including pool and spa sanitisers, were compared. (APVMA)

That statement supports one of Enviroswim's core concerns: there was, at least on APVMA's own public description, a distinction between guidance and specific performance-based criteria included in the legislative determination.

That distinction is central to the complaint.

8.3 The consultation period

APVMA's public consultation ran from 29 March 2022 to 30 June 2022. The consultation invited submissions on proposed amendments to how the efficacy of certain pool and spa chemicals is assessed. (APVMA)

The public page records that two submissions were received from industry groups and that a copy of the published submissions was available on APVMA's website. (APVMA)

For Ombudsman purposes, that means there should be an identifiable administrative record, including:

the consultation proposal;

the submissions received;

any internal APVMA scientific assessment;

any briefing note or decision record;

any recommendation to proceed or not proceed;

any legal or policy advice concerning the proposed amendment;

any final decision record explaining the outcome.

Those records should be capable of identification.

8.4 What APVMA proposed

APVMA proposed to amend the Efficacy Criteria Determination 2014 so that, for agricultural chemical products, clause 3 would refer to specific performance standards established for certain product types. APVMA also proposed adding a schedule containing those performance standards to the determination. (APVMA)

This matters because the proposal would have moved certain pool and spa sanitiser efficacy expectations from guidance into a more formal performance-standard structure.

The proposed change therefore appears to have been more than editorial. It appears to have concerned how efficacy criteria would be formally expressed and applied.

For Enviroswim, the significance is obvious. If APVMA considered adding specific performance standards, then APVMA must have identified some regulatory value in doing so. If APVMA later decided not to proceed, the reasons should be clear and documented.

8.5 APVMA's stated reliance on OECD guidance

APVMA's 2022 consultation stated that its current guidance on demonstrating efficacy of pool and spa sanitisers drew on international best practice, as set out in the OECD guidance document for demonstrating efficacy of pool and spa disinfectants. APVMA also stated that it would continue to rely on the OECD guidance. (APVMA)

This is relevant but not conclusive.

Reliance on OECD guidance may be legitimate. However, the Ombudsman should ask APVMA to explain how that reliance operates in practice:

Is OECD guidance applied to all new pool and spa sanitiser products?

Is it applied to legacy registered products?

Is it applied only where an application, variation or reconsideration occurs?

Does APVMA hold records showing that legacy products were compared against OECD-based criteria?

Does APVMA treat OECD guidance as binding, persuasive or advisory?

How does OECD guidance relate to APVMA's own published guideline and the Efficacy Criteria Determination?

The concern is not the existence of OECD guidance. The concern is whether reliance on that guidance has been clearly explained and applied consistently.

8.6 Proposed laboratory performance standards

The 2022 consultation proposed specific laboratory performance standards for pool and spa sanitisers. The proposed standards included bacterial, viral and protozoan test organisms, specified log reductions and specified exposure times. APVMA's public consultation page listed, among others, *Escherichia coli* at 4 log₁₀ reduction in 30 seconds, *Enterococcus faecium* at 4 log₁₀ reduction in 2 minutes, *Pseudomonas aeruginosa* at 4 log₁₀ reduction in 30 seconds, *Legionella pneumophila* at 4 log₁₀ reduction in 30 seconds, and *Staphylococcus aureus* at 4 log₁₀ reduction in 30 seconds. It also listed proposed viral and protozoan criteria. (APVMA)

This is significant because the proposal was specific. It was not a vague policy discussion.

The proposed performance standards could have provided a clearer benchmark for assessing pool and spa sanitiser efficacy. That makes APVMA's later decision not to proceed an important matter requiring explanation.

8.7 Proposed field-testing standards

APVMA's 2022 consultation also proposed field-testing performance criteria. The proposed field-testing criteria included culturable microorganisms at a maximum of 100 CFU/mL, thermotolerant coliforms not detectable in 100 mL, and *Pseudomonas aeruginosa* not detectable in 100 mL. (APVMA)

This is important because field testing addresses actual operating conditions, not merely laboratory performance.

In Chapter 4, the complaint explains that APVMA's current guidance recognises both laboratory trials and field trials as important for satisfying efficacy criteria for this class of chemicals. APVMA's current guideline states that laboratory trials demonstrate efficacy under controlled conditions, while field trials demonstrate that the product works as expected under actual use conditions. (APVMA)

The 2022 consultation therefore appears consistent with APVMA's broader recognition that pool and spa sanitiser efficacy is both a laboratory and real-world operational issue.

8.8 The apparent gap between public guidance and legislative criteria

The strongest administrative point from the 2022 consultation is the apparent gap between public guidance and legislative performance criteria.

APVMA's public consultation page stated that the Efficacy Criteria Determination 2014 did not include specific performance-based criteria for products including pool and spa sanitisers. APVMA then proposed to amend the determination to include specific performance standards. (APVMA)

This raises a direct Ombudsman question:

If APVMA believed in 2022 that specific performance standards should be added to the determination, why did it later decide that the existing framework and guidance were sufficient?

That question needs a documentary answer.

8.9 APVMA's later position: amendments did not proceed

APVMA later told Enviroswim that the 2022 consultation considered whether changes to guidance for future regulatory decisions were warranted. APVMA stated that all submissions received during the consultation were considered, and that, following consideration of submissions and available evidence, APVMA did not proceed with the proposed amendments at that time. APVMA said this reflected the view that the existing legislative framework and guidance continued to provide an appropriate basis for assessing efficacy.

APVMA's response states that the existing legislative framework and guidance remain appropriate.

However, it does not provide the underlying reasons. It does not identify the submissions, the evidence, the scientific analysis, the decision-maker, the briefing note, or the reasons why the proposed amendments were judged unnecessary or inappropriate.

8.10 The public page appears unresolved

There is a further transparency concern.

APVMA's public consultation page, as available in the public record reviewed for this report, says that APVMA is "currently considering" the submission as part of the consultation. It also records that the page was last updated and reviewed on 9 August 2022. (APVMA)

That public statement appears difficult to reconcile with APVMA's later correspondence to Enviroswim stating that APVMA did not proceed with the proposed amendments after considering submissions and available evidence.

This is a proper transparency issue.

If the consultation has concluded and APVMA has decided not to proceed, the public consultation page should clearly say so. If APVMA's position is that the matter remains under consideration, that should also be clear. The present record appears to leave the public page in an unresolved or outdated state.

The Ombudsman should ask APVMA to explain and, if necessary, correct the public record.

8.11 Why the decision not to proceed matters

The decision not to proceed matters because it affects the clarity of the efficacy framework.

If the proposed amendments had proceeded, APVMA's performance expectations for certain pool and spa chemicals may have been more clearly embedded in the formal efficacy criteria structure. Because the amendments did not proceed, APVMA says the existing legislative framework and guidance remain appropriate.

That may be APVMA's legitimate regulatory view. But the reasons should be transparent, especially given:

the 2014 FOI issue;

Enviroswim's long-running correspondence;

the legacy-product problem;

the public-health nature of pool and spa sanitiser use;

APVMA's own acknowledgment that the 2014 determination lacked specific performance-based criteria for products including pool and spa sanitisers. (APVMA)

The Ombudsman should investigate whether the decision not to proceed was properly reasoned, recorded and publicly explained.

8.12 The relevance to legacy products

The 2022 consultation also matters because of legacy products.

If APVMA had adopted specific performance standards, a question would arise as to whether those standards applied only to future applications or also influenced reconsideration, variation, review or regulatory confidence in existing products.

APVMA later told Enviroswim that products are assessed against the statutory criteria applying at the time an application is registered, and that registered products are not required to continually re-demonstrate compliance unless APVMA becomes aware of information indicating that the product may no longer satisfy statutory criteria.

That means the 2022 consultation potentially had direct relevance to the legacy-product issue.

The Ombudsman should ask whether APVMA considered how the proposed amendments would affect existing registered pool and spa sanitisers, and whether APVMA considered the impact of not proceeding on the evidentiary status of legacy products.

8.13 The relevance to Enviroswim and alternative technologies

The 2022 consultation is also relevant to regulatory parity.

APVMA's current guideline states that all new pool and spa sanitiser products need to demonstrate that they are efficacious, whether they are novel chemicals or traditional sanitisers with a long history of safe use. The guideline also states that applicants are encouraged to submit both laboratory and field-trial information. (APVMA)

That framework affects Enviroswim and other alternative technologies because new or non-traditional systems may face detailed performance-evidence expectations.

If specific performance standards were proposed but not adopted, APVMA should explain how alternative technologies and incumbent products are to be compared fairly under the remaining framework.

The issue is not that alternative technologies should be exempt from evidence. They should not. The issue is that the evidence baseline for all technologies should be clear.

8.14 The significance of the submissions

APVMA's consultation page states that two submissions were received from industry groups. (APVMA)

The Ombudsman should ask APVMA to identify:

which submissions were received;

whether any submissions opposed stronger performance-based criteria;

whether submissions raised concerns about cost, feasibility, legacy products, industry disruption or market impact;

whether submissions were accepted, rejected or partly accepted;

whether APVMA prepared a submissions analysis table;

whether APVMA obtained internal or external scientific advice in response to the submissions;

whether the final decision was influenced by scientific reasons, policy reasons, administrative burden, industry opposition, legal uncertainty or another factor.

This is not about blaming industry submitters. It is about understanding the decision process.

8.15 The need for a decision record

For a matter of this significance, there should be a clear decision record.

That record should explain:

what APVMA proposed;

why APVMA proposed it;

what submissions were received;

what scientific evidence was considered;

what options were considered;

who made the decision;

what reasons were accepted;

why the proposed amendments did not proceed;

whether the decision was communicated publicly;

whether APVMA considered updating its public guidance or consultation page.

If those records exist, they should be identified. If they do not exist, that itself may be an administrative concern.

8.16 The current public guidance remains important but incomplete

APVMA's current public guideline remains important. It states that pool and spa sanitisers are agricultural chemical products, that APVMA must be satisfied of safety, efficacy, trade and labelling criteria before new products can be registered, and that the guideline sets out how applicants may demonstrate that a proposed new product satisfies APVMA's efficacy criteria. (APVMA)

The same guideline sets out performance expectations, laboratory and field-testing concepts, residual concentration requirements, measurable residuals, safety margins and active-constituent contribution requirements. (APVMA)

However, guidance alone does not answer the 2022 transparency issue.

If APVMA proposed to include specific performance standards in the Efficacy Criteria Determination and then decided not to proceed, APVMA should explain how the current guidance now operates, what status it has, and why it is considered sufficient.

8.17 The unresolved administrative issue

The unresolved administrative issue is not merely that APVMA changed its mind.

Regulators can consult and then decide not to proceed. That is normal.

The concern is that APVMA's public-facing record and later correspondence do not appear to provide a full explanation of why the proposed amendments were abandoned or deferred.

The Ombudsman should ask whether APVMA has provided adequate public reasons for a decision affecting products used in residential pools, public aquatic facilities, learn-to-swim centres, hotels, resorts, schools, body corporates, health and aged-care facilities, and other commercial recreational environments.

8.18 Why this is not a technical merits appeal

This chapter does not ask the Ombudsman to substitute its own scientific judgment for APVMA's.

The Ombudsman is not being asked to decide whether the proposed 2022 performance standards were technically correct, whether OECD guidance was adequate, or whether APVMA should have adopted the amendments.

The Ombudsman is being asked to investigate whether APVMA's administration was transparent and adequately reasoned.

The relevant questions are administrative:

Was the decision-making process documented?

Were submissions properly considered?

Were reasons recorded?

Was the public record updated?

Was the effect on legacy products considered?

Was the effect on regulatory parity considered?

Was Enviroswim's long-running evidence issue considered?

Was APVMA's later explanation sufficient?

8.19 Questions for Ombudsman investigation

The 2022 consultation gives rise to the following questions for Ombudsman investigation:

What prompted APVMA to propose amendments to how the efficacy of certain pool and spa chemicals is assessed?

What problem or regulatory gap was APVMA seeking to address?

Why did APVMA state that the Efficacy Criteria Determination 2014 did not include specific performance-based criteria for products including pool and spa sanitisers?

What submissions were received?

What internal analysis did APVMA undertake in response to those submissions?

What scientific evidence was considered?

What legal or policy advice was obtained?

Who decided not to proceed with the proposed amendments?

What were the reasons for that decision?

Were legacy registered products considered?

Were alternative technologies considered?

Was the 2014 FOI decision considered?

Was Enviroswim's correspondence or evidence considered?

Was the public consultation page updated to reflect the decision not to proceed?

If not, why not?

Does APVMA consider the current guideline binding, advisory or discretionary?

How does APVMA ensure consistent efficacy assessment if specific performance standards were not added to the determination?

8.20 Requested Ombudsman action

Enviroswim requests that the Ombudsman consider recommending that APVMA:

provide the decision record explaining why the 2022 proposed amendments did not proceed;

provide a submissions analysis or equivalent document showing how submissions were considered;

identify the scientific evidence relied upon in deciding not to proceed;

identify whether legal or policy advice was obtained concerning the proposed amendments;

explain whether the proposed amendments were abandoned, deferred, replaced or left unresolved;

update the public consultation page to accurately reflect the current status of the consultation and decision;

explain how the existing framework and guidance provide an appropriate basis for assessing efficacy without the proposed specific performance standards;

explain whether legacy registered products were considered in deciding not to proceed;

explain whether the decision not to proceed affects new applications, variations, reconsiderations, or existing registered products differently;

publish a clear technology-neutral statement explaining the current status of APVMA's pool and spa sanitiser efficacy expectations.

8.21 Importance to the wider complaint

The 2022 consultation is not a side issue. It connects directly to the core complaint.

The complaint concerns whether APVMA has adequately explained the evidentiary basis for registered pool and spa sanitiser products, particularly legacy products.

The 2022 consultation shows that APVMA itself considered more specific performance-based criteria for pool and spa chemicals. Its later decision not to proceed, combined with its position that existing products do not need to continually re-demonstrate compliance absent a legislative trigger, leaves the central evidence question unresolved.

That is why the 2022 consultation belongs in the Ombudsman complaint.

8.22 Chapter conclusion

The 2022 proposed amendments create a serious transparency issue.

APVMA publicly stated that the Efficacy Criteria Determination 2014 did not include specific performance-based criteria against which products including pool and spa sanitisers were compared. APVMA proposed amendments to include performance standards. (APVMA)

APVMA later told Enviroswim that, after considering submissions and available evidence, it did not proceed with the proposed amendments because it considered the existing legislative framework and guidance to provide an appropriate basis for assessing efficacy.

That may be APVMA's legitimate regulatory position. But the reasons, records, analysis and public explanation should be clear.

The Ombudsman should therefore investigate whether APVMA's handling of the 2022 proposed amendments was transparent, properly reasoned, adequately documented and consistent with good public administration.

The central proposition is:

Where a regulator publicly proposes stronger or clearer performance-based efficacy criteria, then later decides not to proceed, the public is entitled to a clear explanation of what changed and why.

Chapter 9 - APVMA's Responses to Enviroswim and the Adequacy of Reasons

9.1 Purpose of this chapter

This chapter examines APVMA's responses to Enviroswim's repeated correspondence and whether those responses provided adequate reasons for APVMA's position.

The complaint does not ask the Commonwealth Ombudsman to find that every APVMA response was unlawful, improper or made in bad faith. The issue is more measured.

The issue is whether APVMA's responses adequately addressed the central question Enviroswim repeatedly raised:

What scientific evidence, assessment material, regulatory reasoning or documentary basis supports APVMA's continued confidence in registered swimming pool and spa sanitiser products, particularly legacy chlorine-based products, hydrogen peroxide and PHMB/biguanide products?

Enviroswim's concern is that APVMA has repeatedly responded by referring to statutory processes, registration timing, pre-application pathways, post-market reconsideration triggers, OECD guidance, the absence of continuous re-registration requirements, and access-to-information pathways, but has not clearly answered the substantive evidentiary question.

9.2 Adequate reasons in this complaint

For the purposes of this complaint, adequate reasons should mean more than a formal reply.

A useful and adequate response from APVMA would be expected to identify:

the issue APVMA understood Enviroswim to be raising;

the statutory or policy framework APVMA considered relevant;

the evidence APVMA held or relied upon;

whether the evidence applied to new products, legacy products, or both;

whether APVMA had assessed the evidence against its pool and spa sanitiser efficacy guideline;

whether APVMA relied on historical acceptance, prior registration, external standards, overseas data, manufacturer declarations, state health guidance, OECD guidance or another basis;

whether APVMA had considered reconsideration or review;

what further evidence Enviroswim would need to provide to trigger a different regulatory response.

The complaint is that APVMA's responses did not provide that kind of structured answer.

9.3 The pattern of APVMA responses

The evidence record identifies a repeated pattern.

From late 2025 through 2026, APVMA responded to Enviroswim by referring to its responsibility for agvet chemicals, Enviroswim's earlier Pre-Application Assistance pathway, post-market reconsideration processes, OECD guidance, the absence of cyclical re-registration for already approved products, the fact that products are assessed at the time of registration, and the position that the 2022 proposed amendments did not proceed after consideration.

Those responses may each have some relevance. They explain aspects of APVMA's administrative and legislative framework.

However, Enviroswim's complaint is that they did not squarely answer the question being asked: whether APVMA holds, has assessed, or has relied upon efficacy evidence supporting currently registered pool and spa sanitiser products.

This distinction is critical.

A process answer is not necessarily a reasons answer.

9.4 December 2025: APVMA's response and Enviroswim's reply

In December 2025, APVMA responded by referring to its role in agvet chemicals, Enviroswim's 2021 technical assessment or Pre-Application Assistance pathway, and post-market reconsideration processes for existing products. Enviroswim replied the same day that the Pre-Application Assistance process was not the central issue and asked instead for the scientific evidence supporting current registered pool and spa sanitisers.

This exchange is important because it shows the central disconnect.

APVMA appears to have addressed Enviroswim's own technology pathway. Enviroswim was asking a broader regulatory question about the evidentiary basis for incumbent registered products.

The Ombudsman should investigate whether APVMA properly understood and addressed that distinction.

9.5 The PAA pathway was not the central issue

Enviroswim's concern was not simply that APVMA had not approved or endorsed Enviroswim through a particular pathway.

The concern was that APVMA's regulatory system appeared to hold alternative or newer technologies to contemporary evidence expectations, while incumbent legacy products continued to be accepted without APVMA clearly identifying equivalent evidence.

A response referring to Enviroswim's Pre-Application Assistance pathway therefore did not answer the main question.

The main question was not:

What pathway should Enviroswim use?

The main question was:

What evidence supports the registered products already accepted by APVMA and relied upon in the market?

9.6 February 2026: OECD guidance and non-cyclical reassessment

In February 2026, APVMA stated that efficacy expectations for new pool and spa disinfectants are centred on OECD guidance and that the legislation does not require cyclical re-registration of already approved products. APVMA also stated that reviews are considered when relevant information arises.

This response is relevant, but incomplete.

It may explain why APVMA does not automatically reassess every registered product. It may also explain APVMA's use of OECD guidance for new products.

However, it does not answer whether:

APVMA holds efficacy evidence for legacy registered products;

legacy products were ever assessed against OECD guidance;

legacy products were ever assessed against APVMA's own published pool and spa sanitiser guideline;

APVMA has compared legacy evidence with current expectations;

APVMA has considered whether Enviroswim's material, the 2014 FOI decision or the 2022 consultation raised a reconsideration trigger.

The response therefore addressed the framework, but not the evidentiary substance.

9.7 Enviroswim's February 2026 clarification

On 27 February 2026, Enviroswim responded that APVMA's own published guideline, not OECD guidance in isolation, was the relevant benchmark. Enviroswim asked whether chlorine, hydrogen peroxide and PHMB satisfied APVMA's log-reduction, field-trial and safety-margin expectations.

Enviroswim did not merely challenge APVMA's general authority. It asked a specific benchmark question:

Do the major legacy sanitiser systems satisfy APVMA's own stated efficacy expectations?

A reasoned answer would have explained whether those products:

had been assessed against that benchmark;

had not been assessed because the benchmark did not apply retrospectively;

were accepted on another evidentiary basis;

were supported by scientific literature rather than product-specific data;

were subject to reconsideration only if a statutory trigger arose.

That clear explanation does not appear to have been provided.

9.8 April 2026: procedural answers and ministerial escalation

On 2 April 2026, Enviroswim wrote again to APVMA through ministerial escalation, stating that procedural answers had not addressed whether registered sanitisers demonstrably met APVMA's published efficacy requirements.

This matters because it shows that Enviroswim had identified the problem in real time.

Enviroswim was not merely dissatisfied after the event. It told APVMA that the responses were not answering the substantive evidence question.

At that point, APVMA was on clear notice that Enviroswim considered the distinction between process and evidence to be unresolved.

9.9 29 May 2026: APVMA's registration-time explanation

APVMA response Ref MC26-000919, bearing the date 4 May 2026 and transmitted to Enviroswim on 29 May 2026, stated that products are assessed at the time of registration, existing products are not required to continually re-demonstrate compliance absent a trigger, and the 2022 amendments were not proceeded with after consideration.

This is perhaps APVMA's clearest position.

APVMA appears to be saying that:

each product is assessed under the statutory criteria applicable at the time of registration;

registration does not require automatic continuous re-demonstration;

review or reconsideration depends on relevant information or a statutory trigger;

the 2022 proposed amendments did not proceed.

That explains APVMA's administrative architecture. It does not explain the evidence base.

The key question remains:

What evidence supported the original registrations, and what evidence supports continued regulatory confidence now?

9.10 Why APVMA's May 2026 response was insufficient

APVMA's May 2026 response may have explained why legacy products are not automatically reassessed. But it did not appear to explain:

whether APVMA still holds the evidence submitted at the time of registration;

whether APVMA holds laboratory efficacy reports for chlorine, hydrogen peroxide or PHMB products;

whether APVMA holds field-trial evidence for those products;

whether APVMA has assessed those products against its own published pool and spa sanitiser guideline;

whether APVMA relies on historical acceptance or external standards;

whether APVMA regards the 2014 FOI decision as raising a broader evidence issue;

why the 2022 amendments did not proceed;

what evidence would be sufficient to trigger reconsideration.

That is the adequacy-of-reasons problem.

APVMA gave an answer about process. It did not give a full answer about evidence, reasoning and regulatory confidence.

9.11 The 2014 FOI decision required a fuller explanation

The adequacy of APVMA's later responses must be assessed against the 2014 FOI decision.

The 2014 FOI decision concerned a defined request for scientific evidence demonstrating the efficacy of three named APVMA-registered pool sanitisers against the APVMA guideline. APVMA refused access on the basis that the documents sought did not exist after searches of product, chemistry and raw data files did not reveal documents meeting the scope.

That FOI decision meant later APVMA responses needed to do more than refer to registration status.

APVMA should have explained whether the 2014 position had changed, remained accurate, required qualification, or was limited to the specific scope of that request.

Enviroswim's 5 June 2026 FOI request expressly sought documents showing whether APVMA had obtained, created, received, reviewed, relied upon, identified or recorded scientific evidence since the 2014 decision. It also asked whether the earlier position had been updated, changed, confirmed, qualified or contradicted by later APVMA records.

That was a direct and reasonable request for clarification.

9.12 The 2026 FOI request showed the inadequacy of previous reasons

The 5 June 2026 FOI request is significant because it was framed around the lack of adequate reasons.

It sought documents relating to efficacy test reports, microbiological efficacy reports, scientific assessment reports, product performance assessments, registration decision records, internal scientific reviews, internal memoranda, file notes, emails, briefing notes, meeting records, Board papers and ministerial briefing material concerning efficacy, microbial kill claims, sanitising performance, product performance claims or APVMA's evidentiary basis for continued registration.

It also sought documents identifying whether efficacy data was required, supplied, assessed, waived, not required, unavailable, not held, unable to be located, or not considered necessary, and documents identifying reliance on historical acceptance, grandfathering, prior registration, label claims, overseas data, manufacturer declarations, Australian Standards, state health guidelines, OECD guidance or prior regulatory practice.

Those categories are exactly the categories APVMA needed to address in order to provide adequate reasons.

9.13 APVMA's 11 June 2026 FOI response

APVMA's 11 June 2026 response acknowledged that Enviroswim sought access to documents held from 15 August 2014 onward that contained, referred to, assessed, summarised, reviewed, identified, relied upon, or recorded the existence or non-existence of scientific evidence or efficacy data supporting registration, continued registration, renewal, acceptance or regulatory confidence in registered pool and spa sanitiser products.

APVMA also acknowledged that the request was made in the context of the earlier 2014 FOI decision, in which access was refused on the basis that documents demonstrating efficacy did not exist, and that the current request sought to determine whether the evidentiary position had changed since that time.

That acknowledgement matters. APVMA understood the question.

APVMA then advised that no right of access arose under FOI because, in its view, documents relating to registered chemical products were available under the Agvet Code access pathway, and that APVMA would not process the request under the FOI Act.

Again, this response addressed pathway. It did not answer substance.

9.14 Why the 11 June and 9 July 2026 responses raise an adequacy issue

The 11 June response was not, in itself, an answer to the evidence question.

It did not state whether APVMA held the requested evidence. It did not state whether the 2014 position had changed. It did not separate product-specific records from internal policy records. It did not identify whether any part of the request remained capable of being processed under FOI. It did not provide a schedule of documents. It did not provide a non-confidential explanation of APVMA's evidence basis for legacy products.

It directed Enviroswim to another access pathway.

On 9 July 2026, APVMA provided further information about that pathway. APVMA confirmed that efficacy is considered and maintained in connection with individual product applications and stated that the 24 June spreadsheet extract represented efficacy studies identified through product-specific searches.

That response clarified APVMA's record-management approach, but it did not identify any particular product-specific report, laboratory study, organism tested, efficacy criterion, exposure time, result, APVMA assessment or decision conclusion. It therefore did not enable Enviroswim to determine what the identified records proved or whether the relevant products met APVMA's applicable requirements.

Enviroswim replied by explaining that the spreadsheet was an index or extract rather than the scientific reports themselves, and again requested the underlying product-specific evidence and assessment material while accepting appropriate redactions.

The 9 July exchange therefore reinforces the adequacy-of-reasons issue: APVMA explained how efficacy records are organised, but did not provide a verifiable answer identifying the evidence and assessment conclusions relied upon for the relevant products.

That may or may not have been technically correct as a matter of access law. But for Ombudsman purposes, the issue is whether that was an adequate administrative response to a repeated public-interest evidence question.

9.15 The absence of clear issue-by-issue reasons

Across APVMA's responses, the concern is the absence of issue-by-issue reasons.

A proper response to Enviroswim's concerns could have been structured as follows:

Enviroswim issue	APVMA reasoned answer required
Does APVMA hold efficacy evidence for legacy products?	Yes / no / partly, with evidence categories identified.
Were legacy products assessed against the current pool/spa guideline?	Yes / no / not applicable, with reasons.
If not assessed against current guidance, what earlier criteria applied?	Identify earlier criteria or historical basis.
Does APVMA rely on OECD guidance?	Explain how OECD guidance is used and to which products it applies.
Does APVMA rely on historical acceptance?	State whether historical acceptance is relied upon and why.
What did the 2014 FOI decision mean?	Explain whether it was limited, superseded, confirmed or

	unresolved.
Why did the 2022 amendments not proceed?	Provide decision records or reasons.
What would trigger reconsideration?	Identify APVMA's trigger threshold and whether Enviroswim's material was assessed against it.

The complaint is that APVMA's responses did not provide this level of reasoning.

9.16 Registration timing is not a complete reason

APVMA's position that products are assessed at registration time is relevant, but incomplete.

It explains when the original assessment occurred. It does not explain:

what evidence was assessed;

whether APVMA still holds that evidence;

whether that evidence remains adequate;

whether that evidence is comparable to current efficacy expectations;

whether current confidence is based on evidence or merely on the absence of a statutory trigger.

The Ombudsman should investigate whether APVMA has improperly treated registration timing as a substitute for an evidentiary explanation.

9.17 Absence of cyclical re-registration is not a complete reason

APVMA's position that the legislation does not require continuous re-demonstration absent a trigger is also relevant, but incomplete.

It may explain why APVMA has not reassessed every legacy product. It does not explain whether APVMA has considered whether the information supplied by Enviroswim, the 2014 FOI outcome, the 2022 proposed amendments, public-health literature or workplace exposure developments amounted to information requiring review, triage or reconsideration.

A proper reasoned response should have stated:

whether APVMA considered the material as potential reconsideration information;

whether it decided the material did not meet the threshold;

why it reached that view;

what further evidence would be required.

Without that, Enviroswim is left in the position of being told that reconsideration is possible in theory, but without a clear explanation of how APVMA applied that pathway to the material actually supplied.

9.18 OECD guidance is not a complete reason

APVMA's reference to OECD guidance may be relevant, but it is not enough by itself.

A reasoned answer would need to explain:

which OECD guidance APVMA relies upon;

whether APVMA applies that guidance to new products only;

whether APVMA has applied it to existing legacy products;

whether chlorine, hydrogen peroxide and PHMB products have evidence satisfying that guidance;

whether APVMA holds product-specific or class-level evidence;

whether APVMA relies on OECD guidance as binding, advisory or one source among several.

Without those details, a reference to OECD guidance functions as a signpost, not a reason.

9.19 The 2022 amendments response was not sufficiently reasoned

APVMA stated that the 2022 proposed amendments did not proceed after consideration of submissions and available evidence. APVMA later wrote that it did not proceed with the amendments at that time and considered the existing legislative framework and guidance to provide an appropriate basis for assessing efficacy.

That is a conclusion, not a full explanation.

A full explanation would identify:

what submissions were considered;

what evidence was considered;

what internal assessment was prepared;

whether APVMA accepted or rejected specific concerns;

why the proposed performance standards were no longer considered necessary;

whether legacy products were considered;

whether Enviroswim's submission was considered;

whether the public consultation page was updated to reflect the final outcome.

The Ombudsman should investigate whether APVMA has provided adequate reasons for this decision.

9.20 Adequacy of reasons and public-interest significance

Adequacy of reasons matters more where the issue is of public significance.

Pool and spa sanitisers are used in residential pools, public aquatic facilities, learn-to-swim centres, schools, hotels, resorts, body corporates, health and aged-care facilities and commercial recreational environments. Enviroswim's FOI request expressly identified public health, workplace exposure, consumer protection, aquatic facility safety, public aquatic facility management and public confidence in Commonwealth chemical regulation as relevant public-interest matters.

Given that context, APVMA's reasons should not be limited to procedural references.

The public-interest question is whether regulatory confidence in sanitiser products can be explained in a way that is intelligible to affected stakeholders.

9.21 Adequacy of reasons and regulatory fairness

Adequate reasons also matter because the issue affects regulatory fairness.

Enviroswim and other alternative technologies may be required to produce substantial evidence to gain acceptance. That is appropriate if the same evidence discipline applies across the regulatory system.

But where legacy products are accepted on a different basis, APVMA should explain that basis.

The issue is not that APVMA must impose identical tests on every technology. The issue is that APVMA should explain why different evidence pathways are applied, and what evidence supports each pathway.

Without adequate reasons, the system risks appearing inconsistent even if APVMA believes it is acting lawfully.

9.22 The problem of repeated non-answers

The pattern can be summarised as follows:

Enviroswim asks for evidence supporting registered products.

APVMA refers to registration process, PAA, OECD guidance or reconsideration pathways.

Enviroswim clarifies that it is asking about incumbent product evidence.

APVMA refers again to statutory architecture or access pathways.

Enviroswim makes an FOI request seeking the documents.

APVMA redirects the request to the Agvet Code pathway.

APVMA later states that product-specific searches identified efficacy records and characterises the spreadsheet extract as representing the identified efficacy studies.

Enviroswim clarifies that the extract is not the underlying scientific evidence and again requests the product-specific reports and APVMA assessment conclusions.

The underlying evidence question remains unresolved.

That is the administrative problem.

The Ombudsman should investigate whether APVMA has substantively answered the question or merely managed the correspondence.

9.23 What adequate reasons would now require

At this point, adequate reasons would require APVMA to provide a consolidated response.

That response should identify:

APVMA's understanding of the central question;
the legal distinction between new products, legacy products, renewals, variations and reconsiderations;
whether APVMA holds guideline-equivalent evidence for legacy chlorine, hydrogen peroxide and PHMB products;
if not, what alternative basis supports regulatory confidence;
whether APVMA has considered the 2014 FOI decision as raising a systemic issue;
whether APVMA has considered Enviroswim's material as a possible reconsideration trigger;
what records explain the 2022 decision not to proceed with amendments;
what further process is available to Enviroswim to obtain evidence or trigger review;
whether APVMA will publish technology-neutral guidance clarifying the distinction between registration and contemporary evidence.

9.24 Questions for Ombudsman investigation

The Ombudsman should be asked to investigate the following questions:

Did APVMA properly identify the central question Enviroswim was asking?
Did APVMA provide reasons addressing that question, or did it respond mainly by reference to process?
Did APVMA explain what evidence supports registered pool and spa sanitiser products?
Did APVMA explain whether legacy products were assessed against current, earlier or different efficacy criteria?
Did APVMA explain whether it relies on historical acceptance, prior registration, OECD guidance, Australian Standards, state health guidance, manufacturer declarations, overseas data or another basis?
Did APVMA provide adequate reasons for treating Enviroswim's correspondence as insufficient to trigger reconsideration or review?
Did APVMA explain what further evidence would be needed to trigger reconsideration?
Did APVMA provide adequate reasons for not proceeding with the 2022 proposed amendments?
Did APVMA explain the continuing significance of the 2014 FOI decision?
Did APVMA provide procedural clarity when refusing to process the 2026 request under FOI?
Did APVMA adequately distinguish between product-specific confidential data and general public regulatory reasoning?
Did APVMA's responses meet reasonable standards of transparency and good administration?

9.25 Requested Ombudsman action

Enviroswim requests that the Ombudsman consider recommending that APVMA provide a consolidated statement of reasons addressing the issues raised over the course of the correspondence.

That statement should include:

a clear explanation of the evidence APVMA holds or relies upon for major pool and spa sanitiser classes;
a distinction between products assessed under current guidance and legacy products assessed under earlier arrangements;
a statement of whether chlorine-based sanitisers, hydrogen peroxide and PHMB/biguanide products have been assessed against APVMA's current pool and spa sanitiser efficacy guideline;

a non-confidential explanation of any reliance on historical acceptance, prior registration, OECD guidance, overseas data, manufacturer declarations, Australian Standards, state health guidance or other sources;

a clear explanation of APVMA's reconsideration trigger threshold and whether Enviroswim's material was assessed against it;

the reasons and records explaining why the 2022 proposed amendments did not proceed;

clarification of the 2014 FOI decision's continuing significance;

clarification of which parts of the 2026 access request could or could not be processed under FOI;

publication of technology-neutral guidance explaining the distinction between registration status and contemporary guideline-equivalent efficacy evidence.

9.26 Chapter conclusion

APVMA has responded to Enviroswim many times. That is not disputed.

The issue is whether those responses gave adequate reasons.

The record suggests that APVMA's responses have repeatedly referred to process: Pre-Application Assistance, post-market reconsideration, OECD guidance, statutory triggers, registration timing, non-cyclical reassessment, the 2022 consultation outcome, and the Agvet Code access pathway.

Those matters are relevant. But they do not, by themselves, answer the central question Enviroswim has repeatedly asked:

What evidence supports APVMA's continued regulatory confidence in registered swimming pool and spa sanitiser products, particularly legacy products?

The Ombudsman should therefore investigate whether APVMA's responses were fair, transparent, properly reasoned and consistent with good public administration.

The central proposition is:

A regulator does not provide adequate reasons merely by explaining the process available to a complainant. It must also address the substance of the question being raised.

Chapter 10 - Public Interest, Consumer Protection, Workplace Exposure and Regulatory Confidence

10.1 Purpose of this chapter

This chapter explains why Enviroswim's complaint is not merely a private commercial dispute between an Australian manufacturer and APVMA.

The issues raised in this complaint concern the public administration of swimming pool and spa sanitiser regulation. These products are used in residential pools, public aquatic facilities, learn-to-swim centres, schools, hotels, resorts, body corporate pools, health and aged-care facilities, aquatic recreation centres and commercial leisure settings.

The public-interest question is simple:

When products are registered or accepted for use in water used by the public, consumers and pool operators are entitled to confidence that the regulator can identify and explain the evidence basis for that regulatory confidence.

This chapter does not ask the Commonwealth Ombudsman to decide technical questions of microbiology, pool chemistry or workplace exposure science. It asks the Ombudsman to consider whether APVMA's handling of the evidence issue has wider consequences for consumers, workers, public-health decision-makers and confidence in Commonwealth chemical regulation.

10.2 Why this is not only a private commercial matter

Enviroswim is directly affected by APVMA's administration because it operates in the pool and spa sanitation market. However, the issue goes beyond Enviroswim.

The broader public-interest issue is whether APVMA can clearly explain the evidentiary basis on which pool and spa sanitiser products are registered, maintained, accepted, or treated as regulatory benchmarks.

That issue affects:

consumers choosing pool sanitation systems;
public aquatic facility operators;
learn-to-swim businesses;
hotel and resort pool
operators;
body corporate and strata managers;
schools and community facilities;
aquatic centre staff and swimming instructors;
pool builders and service technicians;
state and local health regulators;
workplace safety regulators;
Australian manufacturers and innovators.

If the evidentiary basis for regulatory confidence is unclear, the consequences are not confined to one company.

10.3 Pool and spa sanitisers are public-health products in practical effect

Swimming pool and spa sanitisers are used to control microbial risk in recreational water. They are intended to protect users from organisms that may cause illness. They are also chemicals or chemical-producing systems used in environments where people may be repeatedly exposed.

That dual character matters.

These products are not merely ordinary consumer goods. They sit at the intersection of:

public health;
chemical regulation;
consumer protection;
workplace exposure;
public facility management;
aquatic industry standards;
commercial product claims.

Because of this, the regulatory evidence base should be especially clear.

The complaint is not that all existing pool sanitisers are unsafe or ineffective. The complaint is that the public should be able to understand what evidence supports APVMA's confidence in those products.

10.4 Consumer protection concerns

Consumers generally cannot independently assess microbiological efficacy, by-product formation, sanitiser residual behaviour, laboratory performance, field-trial outcomes or regulatory evidence files.

They rely on:

APVMA registration status;
product labels;
pool-shop advice;
pool-builder recommendations;
industry guidance;
health-department guidance;
marketing claims;
installer and service-technician statements.

If APVMA registration is treated in the marketplace as proof of modern efficacy evidence, but the actual basis may be historical acceptance, earlier registration, external standards, product literature, overseas data or another form of evidence, that distinction should be transparent.

Consumers are entitled to know whether "registered" means:

recently assessed against current APVMA pool and spa efficacy expectations;

historically assessed under earlier arrangements;

accepted because no reconsideration trigger has been activated;

supported by general scientific literature;

supported by product-specific efficacy data;

supported by external standards or state health rules;

supported by a combination of these factors.

Without that clarity, registration status may be misunderstood.

10.5 The danger of confusing registration with contemporary proof

A central theme of this complaint is that registration status is not the same as contemporary product-specific evidence.

This distinction is especially important for consumers.

A consumer may reasonably assume that a registered pool sanitiser has been tested and assessed against current APVMA performance expectations. That assumption may not always be correct, particularly for older products registered under earlier arrangements.

That does not mean those products are ineffective. It means the regulatory basis needs to be explained honestly.

A transparent system would distinguish between:

products assessed under current guidance;

products assessed under earlier criteria;

products accepted because of historical use;

products supported by overseas or literature evidence;

products retained because no statutory reconsideration trigger has been accepted.

The public should not be left to assume that all registered products have the same evidentiary history.

10.6 Public aquatic facilities

The issue is even more important for public aquatic facilities.

Public pools and spas are managed environments where large numbers of people may be exposed to the same water system. Users may include children, elderly people, people with health vulnerabilities, swimming instructors, pool staff, maintenance contractors and regular patrons.

Operators of public aquatic facilities must make decisions about sanitation systems, dosing, monitoring, maintenance, ventilation, staff exposure, corrosion, water balance and compliance with health requirements.

Those operators need confidence that the sanitiser systems they use are backed by a clear regulatory evidence base.

If APVMA cannot clearly identify the evidence supporting legacy products, or if it relies on historical acceptance without explaining the limits of that reliance, public facility operators are left without a clear basis for comparing technologies.

10.7 Workplace exposure relevance

Pool sanitation is also a workplace issue.

Aquatic centre staff, swimming teachers, lifeguards, cleaners, maintenance technicians and pool-service workers may spend long periods in or around treated pool environments. Indoor aquatic facilities can involve repeated exposure to airborne and waterborne chemical by-products, vapours, aerosols and odours associated with pool sanitation and bather load.

This complaint does not ask the Ombudsman to determine occupational exposure limits or workplace safety standards. Those are matters for the relevant workplace health and safety bodies.

However, APVMA's regulation of sanitiser products still has workplace relevance because the choice and regulation of sanitiser systems can influence the chemical environment in which workers operate.

Where regulatory confidence in sanitiser products is unclear, workplace stakeholders are also affected.

10.8 Relationship between efficacy and exposure

There is an important balance in pool sanitation.

A sanitiser must be effective against relevant pathogens. But a sanitiser system also affects chemical exposure, by-products, corrosion, air quality, operational management and user comfort.

A regulatory system focused only on whether a product can kill organisms under certain conditions may not fully answer broader public-health and workplace questions. Equally, a product that reduces exposure concerns must still demonstrate adequate sanitation performance.

The correct approach is not to favour one technology by assumption. The correct approach is evidence-based comparison.

That is why Enviroswim's request for an identifiable evidentiary baseline is reasonable. Without a clear baseline, public-health and workplace comparisons cannot be made properly.

10.9 Regulatory confidence

Regulatory confidence depends on transparency.

It is not enough for a regulator to say that products are registered. A regulator should be able to explain, at least at a non-confidential category level, why it remains confident in the product class.

That explanation should cover:

the evidence held;

the evidence assessed;

the criteria applied;

whether the criteria were current or historical;

whether the products were subject to later review;

whether any evidence gaps exist;

whether reliance is placed on external standards or historical acceptance.

This is particularly important where a regulator has been repeatedly asked the same question over many years.

10.10 Public confidence and the 2014 FOI issue

The 2014 FOI decision is important because it raised a public-confidence issue.

The issue is not that the 2014 decision proved all registered pool sanitisers ineffective. It did not.

The issue is that APVMA apparently did not locate documents within the scope of a defined request seeking evidence that three named registered products met APVMA's pool and spa efficacy guideline.

That created an unresolved question:

If APVMA could not locate guideline-specific evidence for those products, what evidence or reasoning supported continued regulatory confidence in them?

That question is not private to Enviroswim. It is relevant to anyone relying on APVMA's regulatory role.

10.11 Public confidence and the 2026 access-to-evidence issue

The 2026 FOI / Agvet Code issue is also a public-confidence issue.

Enviroswim asked whether APVMA's evidentiary position had changed since 2014. APVMA redirected the request into the Agvet Code pathway. A spreadsheet extract was later supplied, but Enviroswim's position is that this did not provide the underlying reports, study methods, results, laboratory test conditions or APVMA assessment conclusions needed to answer the central evidence question.

Again, the issue is not simply whether APVMA followed an available statutory pathway. The issue is whether the pathway provided meaningful access to the evidence basis for regulatory confidence.

A public-interest evidence question should not disappear into procedural complexity.

10.12 Consumer misinformation and market conduct

A lack of regulatory clarity can also affect consumer protection and market conduct.

If businesses use APVMA registration, industry acceptance or health guidance to imply that a product has been tested against modern performance criteria, but that is not actually the basis of registration, consumers may be misled.

That does not mean every business is acting improperly. Many pool businesses may simply repeat what they believe registration means.

The problem is that, without clear APVMA guidance, the market may treat all registered products as if they have the same evidentiary status.

This can distort consumer understanding.

The Ombudsman should consider whether APVMA should publish plain-language guidance explaining the distinction between:

APVMA registration;

product-specific efficacy evidence;

legacy registration;

current guideline assessment;

reliance on external standards or historical use.

10.13 Impact on Australian innovation

The public interest also includes fair treatment of Australian innovation.

An Australian manufacturer developing an alternative pool sanitation technology should expect rigorous scrutiny. Enviroswim does not object to evidence-based regulation. It supports it.

However, if new or alternative technologies are required to meet visible contemporary evidence standards while incumbent legacy products continue to operate as accepted benchmarks without the same visible evidence, innovation may be disadvantaged.

This is not only a private commercial issue. It affects whether the Australian regulatory system encourages or discourages safer, cleaner or more efficient technologies.

A fair regulatory system should not protect incumbency by obscurity. It should provide a clear evidentiary baseline for all technologies.

10.14 Impact on pool operators

Pool operators need to make practical decisions.

They must consider:

microbiological control;

chemical dosing;

cost of operation;

maintenance;

staff safety;

user comfort;

compliance;

equipment corrosion;

ventilation;

complaints from patrons;

insurance and liability;

public-health expectations.

To make those decisions properly, operators need reliable information about how different sanitation systems are assessed.

If APVMA's evidentiary basis for different systems is unclear, operators may default to legacy products not because they have compared the evidence, but because the regulatory system does not make the evidence comparison transparent.

10.15 State health authorities and local regulators

State and local health authorities also rely on the broader regulatory environment.

APVMA registration does not replace state public-health regulation, but APVMA's position can influence how products are treated in health guidance, aquatic facility rules, industry advice and compliance expectations.

If APVMA's evidence basis is unclear, state authorities may assume that Commonwealth registration reflects a level of contemporary efficacy assessment that may not apply equally to all products, particularly legacy products.

The Ombudsman should investigate whether APVMA has communicated clearly with state and territory stakeholders about the distinction between registration status and current efficacy evidence.

10.16 The public-interest role of transparency

Transparency does not require APVMA to disclose protected commercial information unlawfully.

But transparency does require APVMA to explain its position in a way that affected stakeholders can understand.

For example, APVMA could say:

"This product class is supported by historical assessment records."

"This product class is supported by scientific literature rather than product-specific field trials."

"This product class has not been assessed against the current guideline because it was registered before the guideline."

"This product class remains registered because no reconsideration trigger has been accepted."

"This product class was assessed against the current guideline."

"APVMA does not hold product-specific field-trial evidence but relies on other evidence."

Those statements would provide clarity without necessarily releasing confidential files.

10.17 Confidentiality should not prevent non-confidential explanation

APVMA may hold confidential commercial information or protected data. Enviroswim does not ask the Ombudsman to require APVMA to disclose material unlawfully.

However, confidentiality should not prevent APVMA from explaining, at a non-confidential level, the type of evidence and reasoning it relies upon.

For example, APVMA should be able to identify whether it relies on:

laboratory efficacy studies;

field trials;

published scientific literature;

international guidance;

OECD guidance;

earlier registration files;

state health requirements;

Australian Standards;

manufacturer declarations;

history of safe use;

absence of adverse reports;

reconsideration thresholds.

That kind of explanation is central to public confidence.

10.18 Why the Ombudsman should investigate systemic issues

The Ombudsman should consider whether the issue is systemic.

The problem may not be limited to one product or one request. It may reflect a broader issue in how APVMA handles legacy chemical products where current guidance, older registrations, access-to-information regimes and public expectations do not align neatly.

The systemic question is:

Does APVMA have a transparent method for explaining the evidence basis of legacy product classes when later performance expectations are introduced or published?

If not, the pool and spa sanitiser issue may reveal a wider administrative weakness.

10.19 The balance required

Enviroswim does not allege that every legacy product is unsafe, that APVMA has acted dishonestly, or that chlorine, hydrogen peroxide, PHMB, bromine or salt chlorination are inherently ineffective.

Where products are relied upon in public-health settings, and where the regulator has published efficacy expectations, the regulator should be able to identify or explain the evidence basis for its continuing confidence.

That proposition is fair, reasonable and difficult to dismiss.

10.20 Public-interest questions for Ombudsman investigation

The Ombudsman should be asked to investigate the following public-interest questions:

Does APVMA distinguish clearly between registration status and contemporary efficacy evidence in public-facing material?

Does APVMA provide sufficient information for consumers and pool operators to understand the evidence basis for registered pool and spa sanitiser products?

Does APVMA hold or identify product-class evidence for major sanitiser systems, including chlorine-based sanitisers, hydrogen peroxide, PHMB/biguanide products, bromine products, salt-chlorination systems and mineral/salt products?

Does APVMA explain whether legacy products were assessed against current or earlier criteria?

Does APVMA provide adequate non-confidential explanations where product data is protected?

Does APVMA communicate clearly with state health authorities and industry stakeholders about the evidentiary status of registered products?

Does APVMA consider workplace exposure implications when responding to public-interest concerns about pool and spa sanitation?

Has APVMA considered whether uncertainty around evidence transparency may affect consumer understanding or market conduct?

Has APVMA considered whether its treatment of legacy products may create barriers to Australian innovation?

Has APVMA considered whether the 2014 FOI decision and 2026 access-to-evidence request reveal a systemic transparency issue?

10.21 Requested Ombudsman action

Enviroswim requests that the Ombudsman consider recommending that APVMA:

publish a plain-language explanation of what APVMA registration means, and does not mean, for pool and spa sanitiser products;

distinguish between products assessed under current guidance and products registered under earlier arrangements;

provide a non-confidential product-class evidence statement for major pool and spa sanitiser systems;

explain how APVMA protects public confidence where confidential product data cannot be released;

clarify whether APVMA has assessed legacy products against current efficacy guidance;

explain the role of historical acceptance, prior registration, OECD guidance, Australian Standards, state health rules, manufacturer data and scientific literature in APVMA's continued regulatory confidence;

consider whether a public-interest review of pool and spa sanitiser efficacy evidence is warranted;

consider whether updated public guidance is needed to prevent misunderstanding of APVMA registration status;

consult with relevant public-health, workplace-safety and consumer-protection stakeholders on the evidentiary transparency issue;

provide clear reasons if APVMA considers that no further review or guidance is required.

10.22 Chapter conclusion

The issues raised in this complaint are not confined to Enviroswim's commercial position.

They concern public confidence in the regulation of products used in swimming pools and spas across Australia. They affect consumers, pool operators, aquatic workers, public-health decision-makers, state regulators, industry participants and innovators.

The complaint does not ask the Ombudsman to determine whether one sanitiser technology is better than another. It asks whether APVMA has administered the evidentiary issue transparently and fairly.

The central proposition is:

Where a Commonwealth regulator permits or maintains products in a public-health-sensitive market, the public is entitled to understand the evidence basis for regulatory confidence, especially where older products continue to operate as benchmarks against newer technologies.

That is why this complaint is a public-interest matter and why Ombudsman investigation is warranted.

Chapter 11 - Impact on Enviroswim, Australian Innovation and Regulatory Fairness

11.1 Purpose of this chapter

This chapter explains the impact of APVMA's handling of Enviroswim's long-running concerns on Enviroswim, Australian innovation, market fairness and regulatory confidence.

The purpose of this chapter is not to present a final damages claim. Any quantified commercial loss would require a separate schedule supported by financial records, lost-opportunity evidence, correspondence, procurement records and expert analysis.

The purpose here is narrower.

This chapter explains how APVMA's handling has affected Enviroswim by leaving unresolved the evidentiary baseline against which its technology and competing pool and spa sanitiser products are judged.

The central issue is:

If incumbent or legacy products are accepted as regulatory benchmarks without APVMA clearly identifying the evidence supporting them, while Enviroswim and other alternative technologies are expected to justify themselves against contemporary evidence standards, then the regulatory environment may be unfair, unclear and innovation-limiting.

11.2 Enviroswim's position as an Australian innovator

Enviroswim is an Australian-developed swimming pool sanitation technology. It has sought to compete in a market long dominated by traditional chemical sanitation methods, including chlorine-based systems and salt-chlorination systems.

Enviroswim's position is not that innovation should be exempt from scrutiny. To the contrary, Enviroswim accepts that any pool or spa sanitation technology should be supported by sound evidence, proper testing, appropriate operational controls and clear performance expectations.

The complaint is that the evidentiary expectations applied to innovation should be matched by transparent evidence expectations for incumbent products.

A fair regulatory system should not make new entrants prove everything while legacy products benefit from historical acceptance without the underlying evidence being clearly identified or explained.

11.3 The regulatory disadvantage created by uncertainty

Regulatory uncertainty can damage a technology even where no formal prohibition exists.

If a regulator does not clearly explain whether incumbent products have been assessed against current efficacy standards, or whether they remain accepted on historical or legacy grounds, alternative technologies face an uneven comparison.

The practical result is that Enviroswim may be required to answer detailed questions about efficacy, field performance, safety margins, residual management and evidence, while competing products may benefit from the simple fact that they are already registered or widely accepted.

That creates a difficult market environment.

Enviroswim is left competing not only against products, but against assumptions.

11.4 The problem of incumbent benchmark status

Traditional chemical sanitisers are often treated as the default benchmark in the pool and spa industry.

That default status may be understandable historically. Chlorine and related systems have been used for many years. Pool operators, service technicians, industry trainers, health authorities and consumers are familiar with them.

However, long use is not the same as transparent evidence.

If incumbent products are treated as the benchmark, APVMA should be able to explain the evidence basis for that benchmark status. Otherwise, Enviroswim and similar technologies are placed in the position of having to prove themselves against a benchmark whose own evidentiary basis is not equally visible.

That is not a fair regulatory environment.

11.5 Innovation should be tested, not blocked by opacity

The complaint does not argue that Australian innovation should be fast-tracked simply because it is Australian.

Innovation should be tested fairly against clear and technology-neutral evidence standards.

If a regulator requires new or alternative technologies to demonstrate microbiological efficacy, measurable residual, safety margin, field performance and operational control, then those expectations should be applied or explained across the product landscape.

Where different standards apply because of legacy status, earlier registration, overseas data, historical acceptance or external guidance, those differences should be disclosed and justified.

Innovation is not helped by weak regulation. It is helped by clear regulation.

11.6 Impact on Enviroswim's market acceptance

APVMA's handling may have affected Enviroswim's market acceptance in several practical ways.

First, uncertainty around APVMA's position can make pool builders, pool shops, service technicians, public facilities and consumers hesitant to adopt alternative technologies.

Second, incumbent products can continue to be treated as automatically acceptable because they are familiar and registered.

Third, Enviroswim may be required to carry a heavier explanatory burden than competitors whose products are assumed to be acceptable without equivalent scrutiny.

Fourth, unresolved regulatory questions can be used against Enviroswim by competitors, whether fairly or unfairly.

Fifth, public and commercial operators may avoid alternative systems not because the evidence is weak, but because the regulatory baseline is unclear.

These are not abstract concerns. They are the practical effects of regulatory uncertainty in a market where trust, compliance and reputation matter.

11.7 Impact on reputation

In the pool industry, reputation is critical.

A product associated with regulatory uncertainty can be disadvantaged even if it has evidence, field experience and technical merit. Buyers may avoid it because they fear regulatory complications, warranty disputes, service uncertainty or criticism from traditional industry participants.

If APVMA does not clearly explain how competing technologies are assessed, Enviroswim may suffer reputational disadvantage simply because it is not part of the incumbent chemical model.

That is especially problematic where incumbent products may not have a clearly visible evidence record equivalent to the one demanded of alternative technologies.

The complaint is not that APVMA directly damaged Enviroswim's reputation by a single statement. The more careful point is that APVMA's unresolved handling of the evidence issue has contributed to a regulatory environment in which Enviroswim's reputation and acceptance can be unfairly affected.

11.8 Impact on commercial opportunity

A fair regulatory framework should allow products to compete on evidence, performance, safety, cost, serviceability and user outcomes.

Where the evidentiary baseline is unclear, commercial opportunity may be distorted.

Enviroswim may lose opportunities where potential customers, distributors or public-facility operators default to incumbent systems because those systems appear to carry unquestioned regulatory legitimacy.

This is especially important in public aquatic facilities and commercial projects, where decision-makers tend to be cautious. If APVMA has not clearly explained the evidence basis for all major sanitiser classes, alternative products may be treated as higher risk regardless of their actual evidence base.

That is a market fairness problem caused by regulatory opacity.

11.9 Impact on public procurement and institutional decision-making

Public and institutional buyers often rely heavily on regulatory signals.

Councils, aquatic centres, schools, resorts, body corporates and other institutional operators may not have the technical capacity to independently compare microbiological efficacy evidence across sanitiser systems.

They look to regulators, industry standards and accepted practice.

If APVMA's position is unclear, institutional buyers may assume that incumbent registered systems have been assessed to a modern performance standard, while alternative technologies require additional scrutiny.

That assumption may be wrong, or at least incomplete.

The result is that public procurement and institutional decision-making may favour incumbent products by default, rather than by evidence.

11.10 Impact on exports and international credibility

Australian innovation often relies on domestic regulatory credibility.

An Australian manufacturer seeking export markets benefits when it can point to a clear, fair and evidence-based domestic regulatory system.

Conversely, where the domestic regulator's handling appears unclear or unresolved, that may create difficulties for international discussions, distributors, certification bodies, investors or institutional buyers.

The issue is not that APVMA should act as Enviroswim's promoter. It should not.

The issue is that Australian regulators should administer evidence standards clearly and fairly so that Australian companies can compete domestically and internationally on merit.

11.11 The cost of prolonged uncertainty

The chronology shows that Enviroswim's concerns have persisted over many years.

Prolonged uncertainty has a cost.

It consumes management time, legal and administrative effort, technical resources, document preparation, correspondence, regulatory follow-up and commercial attention. It also creates uncertainty for staff, distributors, partners and potential customers.

A small or medium-sized Australian manufacturer does not have unlimited capacity to engage in repeated regulatory correspondence over decades.

Where a regulator's responses do not resolve the central issue, the burden falls back on the complainant repeatedly. That is a real administrative impact, even before any financial loss is quantified.

11.12 The evidentiary burden on Enviroswim

Enviroswim has spent significant time assembling testing records, historical correspondence, technical explanations, public-interest submissions, FOI requests and regulatory arguments.

That work has been necessary because the evidentiary baseline for competing products has remained unclear.

If APVMA had provided a clear, consolidated explanation earlier, Enviroswim may not have needed to keep asking the same question in different forms.

The complaint therefore asks the Ombudsman to consider whether APVMA's handling has unnecessarily shifted the burden of clarification onto Enviroswim.

11.13 Regulatory fairness and unequal burden

Regulatory fairness does not mean every product receives identical treatment.

Different technologies may require different evidence because they work differently.

However, fairness does require that differences in treatment be rational, transparent and explained.

The apparent unfairness here is that Enviroswim has been required to justify itself against detailed efficacy expectations, while legacy products may remain accepted because of registration history, historical use or absence of a reconsideration trigger.

That may be lawful under APVMA's framework. But if it is the position, it should be clearly stated.

The unfairness is made worse if legacy products are treated in the market as if they possess current guideline-equivalent evidence when APVMA has not clearly identified that evidence.

11.14 The impact of unclear APVMA responses

APVMA has responded to Enviroswim on multiple occasions. The issue is not silence.

The issue is that the responses appear to have left the central question unresolved.

For Enviroswim, this means:

- continued uncertainty about the evidence baseline;
- continued difficulty answering industry criticism;
- continued need to pursue FOI and access-to-information pathways;
- continued difficulty comparing Enviroswim fairly against legacy products;
- continued uncertainty about what would trigger APVMA review or reconsideration;
- continued uncertainty about why the 2022 proposed amendments did not proceed.

This is the practical effect of inadequate reasons.

11.15 Innovation and the chilling effect of regulatory opacity

Regulatory opacity can have a chilling effect on innovation.

Innovators may decide not to enter a market where the incumbent evidentiary baseline is unclear. Investors may hesitate. Distributors may avoid risk. Public buyers may default to old products. Industry bodies may favour the familiar.

This is not necessarily caused by deliberate conduct. It can happen simply because the regulatory system is not transparent enough.

That is why the Ombudsman should consider whether APVMA's handling has broader implications for Australian innovation in regulated chemical and public-health-adjacent markets.

11.16 Why this is not a request for preferential treatment

Enviroswim does not ask the Ombudsman to recommend special treatment.

Enviroswim does not ask APVMA to relax evidence standards for its technology.

Enviroswim asks for the opposite: clear, consistent and technology-neutral evidence standards.

That means:

if Enviroswim must provide evidence, so should comparable products;

if legacy products are treated differently, APVMA should explain why;

if APVMA relies on historical evidence, it should identify the category of evidence;

if APVMA does not hold current evidence, it should say so;

if APVMA considers registration history sufficient, it should explain that position openly.

That is not preferential treatment. It is fair administration.

11.17 The role of the 2014 FOI decision in Enviroswim's impact

The 2014 FOI decision had practical significance for Enviroswim because it appeared to confirm that APVMA could not locate certain guideline-specific efficacy documents for named registered products.

That left Enviroswim with a serious unresolved question: if the evidence could not be located, why were those products treated as accepted benchmarks?

For an innovator trying to compete in the same market, that uncertainty matters.

It affects the ability to compare technologies fairly. It affects the ability to respond to industry claims. It affects the ability to explain regulatory parity to customers, distributors and public bodies.

11.18 The role of the 2026 access process in Enviroswim's impact

The 2026 FOI / Agvet Code exchange continued the impact.

Enviroswim attempted to resolve the 2014 issue by asking whether APVMA's evidentiary position had changed. APVMA redirected the request away from FOI into the Agvet Code pathway. Later, a spreadsheet extract was provided, but Enviroswim's position is that it did not provide the underlying reports, study methods, results, laboratory conditions or APVMA assessment conclusions needed to answer the central evidence question.

The practical effect was that the issue remained unresolved.

For Enviroswim, that meant more correspondence, more uncertainty, more cost and more delay.

11.19 The role of the 2022 proposed amendments in Enviroswim's impact

The 2022 proposed amendments also affected Enviroswim's position.

APVMA publicly considered adding specific performance-based criteria for pool and spa chemicals. It later did not proceed.

For Enviroswim, the unresolved question is whether those amendments would have provided clearer regulatory parity and whether the decision not to proceed preserved uncertainty around legacy products.

If APVMA considered stronger performance standards but then decided existing guidance was sufficient, Enviroswim is entitled to ask why.

Without a clear explanation, Enviroswim remains uncertain about the standard against which all products are being judged.

11.20 Impact on confidence in APVMA's neutrality

The issue is not whether APVMA intended to favour incumbent products.

The issue is whether APVMA's handling could reasonably create the appearance of unequal treatment.

When a regulator gives clear procedural explanations but does not clearly identify the evidence supporting incumbent products, a stakeholder in Enviroswim's position may reasonably question whether the system is neutral in practice.

That appearance matters.

Regulatory fairness requires not only impartial decision-making, but a process that affected parties can understand as impartial.

11.21 Impact on industry culture

The pool industry is heavily influenced by accepted practice.

If the regulatory system does not clearly explain the evidence basis for incumbent products, industry culture may harden around traditional systems. Alternative technologies may then be treated as suspect simply because they are different.

That is not a scientific basis for decision-making.

It is conservatism reinforced by unclear regulatory signalling.

A transparent APVMA evidence statement would help shift the market from assumption to evidence.

11.22 Impact on consumers who may never hear the evidence question

Most consumers will never ask whether APVMA holds laboratory efficacy reports, field trials, guideline assessments or historical registration records.

They will simply ask their pool builder, pool shop or service technician what system they should use.

If the industry answer is shaped by historical acceptance rather than transparent evidence comparison, consumers may never know that different products have different evidentiary histories.

This is why Enviroswim's complaint has a consumer dimension, even though Enviroswim is a commercial party.

11.23 Impact on public-health innovation

Public-health innovation often faces resistance because the old way is familiar.

That resistance is not always wrong. Public-health systems should be cautious.

But caution should be evidence-based.

If a new technology can demonstrate performance, and if incumbent technologies are accepted on less visible or older evidence, the regulator should explain the difference clearly.

Otherwise, public-health innovation may be delayed or discouraged for reasons unrelated to actual performance.

11.25 What a fairer regulatory response would have achieved

A fairer and more transparent response from APVMA could have reduced or avoided much of the impact.

APVMA could have provided:

a clear statement of the evidence basis for major sanitiser classes;

a clear explanation of how legacy products are treated;

a distinction between current guidance and historical registration;

a non-confidential explanation of reliance on scientific literature or external standards;

a clear statement of what APVMA does and does not hold;

an explanation of the 2014 FOI decision;

a decision record for the 2022 proposed amendments;

a practical pathway for Enviroswim to submit evidence capable of triggering reconsideration.

Such a response would not have required APVMA to endorse Enviroswim. It would simply have clarified the regulatory baseline.

11.26 Questions for Ombudsman investigation

The Ombudsman should be asked to investigate the following questions:

Has APVMA's handling of Enviroswim's correspondence imposed an unreasonable burden on Enviroswim by failing to answer the central evidentiary question?

Has APVMA adequately explained the evidentiary baseline against which Enviroswim and competing products are assessed?

Has APVMA clearly distinguished between legacy products and products assessed under current guidance?

Has APVMA considered the impact of unclear evidence standards on Australian innovation?

Has APVMA considered whether its handling may create or reinforce market advantages for incumbent products?

Has APVMA provided Enviroswim with a practical and clear pathway to have its evidence considered as a possible reconsideration trigger?

Has APVMA adequately explained why legacy products can continue to operate as benchmarks without visible contemporary evidence?

Has APVMA considered the reputational and commercial consequences for Enviroswim of prolonged uncertainty?

Has APVMA's handling been consistent with fair, transparent and technology-neutral administration?

Would a published product-class evidence statement reduce market uncertainty and improve regulatory fairness?

11.27 Requested Ombudsman action

Enviroswim requests that the Ombudsman consider recommending that APVMA:

provide Enviroswim with a consolidated response addressing the evidentiary baseline for pool and spa sanitiser products;

publish a technology-neutral explanation of how new products, alternative technologies and legacy products are treated under APVMA's efficacy framework;

identify the evidence categories relied upon for major sanitiser classes;

explain whether Enviroswim's submitted material has been considered as a potential trigger for reconsideration or review;

identify what further evidence APVMA would require from Enviroswim or any other party to trigger reconsideration;

explain the continuing significance of the 2014 FOI decision;

provide reasons for the decision not to proceed with the 2022 proposed amendments;

consider whether a broader independent review of pool and spa sanitiser efficacy evidence is warranted;

ensure that APVMA's public guidance does not create unintended market advantages for incumbent products by failing to distinguish registration status from evidence status;

consider whether administrative remedy, apology, clarification or corrective public guidance is appropriate in light of the long-running uncertainty.

11.28 Chapter conclusion

The impact on Enviroswim is not merely commercial disappointment.

It is the impact of operating for many years in a regulatory environment where the evidentiary baseline for competing products has remained unclear, despite repeated requests for clarification.

Enviroswim accepts that pool and spa sanitation technologies should be evidence-based. Its complaint is that evidence expectations must be clear, consistent and technology-neutral.

Legacy products may remain registered for lawful reasons. But if those products continue to operate as benchmarks in the market, APVMA should be able to explain the evidence basis for that position.

The central proposition is:

Australian innovation should not be required to compete against regulatory assumptions. It should compete against evidence.

That is why APVMA's handling has affected Enviroswim, Australian innovation and regulatory fairness, and why Ombudsman investigation is warranted.

Chapter 12 - Specific Issues for Ombudsman Investigation

12.1 Purpose of this chapter

This chapter identifies the specific issues Enviroswim asks the Commonwealth Ombudsman to investigate.

The preceding chapters set out the history, regulatory context, FOI/access-to-evidence issues, legacy-product concerns, public-interest implications and impact on Enviroswim.

This chapter brings those matters together as a structured investigation request.

The complaint does not ask the Ombudsman to determine whether any particular pool or spa sanitiser product is effective or ineffective. It does not ask the Ombudsman to substitute itself for APVMA as the technical regulator.

Instead, Enviroswim asks the Ombudsman to investigate whether APVMA's handling of the matter has been fair, reasonable, transparent, properly documented, adequately reasoned and consistent with good public administration.

12.2 Central investigation question

The central investigation question is:

Has APVMA adequately identified, explained and administered the evidentiary basis for its continued regulatory confidence in registered swimming pool and spa sanitiser products, particularly legacy chlorine-based sanitisers, hydrogen peroxide and PHMB/biguanide products, after repeated requests from Enviroswim over many years?

That question is grounded in the documentary record. Enviroswim's 5 June 2026 FOI request specifically sought documents held by APVMA from 15 August 2014 onward concerning scientific evidence or efficacy data supporting registration, continued registration, renewal, acceptance or regulatory confidence in registered pool and spa sanitiser products.

APVMA response Ref MC26-000919, bearing the date 4 May 2026 and transmitted to Enviroswim on 29 May 2026, states that each product is assessed against the statutory criteria applying at the time of registration, that registered products do not continually re-demonstrate compliance absent a trigger, and that APVMA did not proceed with the 2022 proposed amendments after considering submissions and available evidence.

Those two positions sit at the centre of the complaint.

12.3 Issue 1 - Whether APVMA answered the central evidence question

The first issue is whether APVMA has actually answered the central question Enviroswim has repeatedly asked.

That question is not:

Is the product registered?

The question is:

What evidence, assessment material, regulatory reasoning or historical basis supports APVMA's confidence that registered pool and spa sanitiser products are effective for their intended purpose?

APVMA has responded by referring to statutory criteria, registration timing, the absence of continual re-demonstration, reconsideration triggers, internationally recognised efficacy standards, published guidance and the 2022 consultation outcome.

Those matters are relevant. But the Ombudsman should investigate whether they amount to a substantive answer to the evidence question, or whether they are mainly descriptions of process.

Investigation questions

The Ombudsman should ask APVMA:

What does APVMA understand Enviroswim's central complaint to be?

Does APVMA accept that Enviroswim has repeatedly asked for the evidence basis supporting registered pool and spa sanitiser products?

Has APVMA provided a consolidated answer identifying that evidence basis?

If not, why not?

Does APVMA distinguish internally between registration status and evidence of efficacy?

12.4 Issue 2 - The distinction between registration status and efficacy evidence

The second issue is whether APVMA has clearly distinguished between a product being registered and APVMA holding or relying upon contemporary efficacy evidence.

This distinction is critical.

APVMA's position appears to be that products are assessed at registration, remain registered unless not renewed or unless APVMA becomes aware of information suggesting they may no longer satisfy statutory criteria, and are not required to continually re-demonstrate compliance absent such a trigger.

That may explain why legacy products remain on the Register. It does not, by itself, explain what evidence supports continued confidence in those products.

Investigation questions

The Ombudsman should ask APVMA:

Does APVMA treat registration status as evidence of current efficacy?

Does APVMA hold current or historical efficacy evidence for legacy pool and spa sanitiser products?

If APVMA does not hold current evidence, does it rely on earlier registration records, history of use, scientific literature, OECD guidance, state health requirements, Australian Standards, overseas data, manufacturer declarations or another basis?

Has APVMA clearly explained this distinction to Enviroswim?

Has APVMA clearly explained this distinction publicly?

12.5 Issue 3 - The 2014 FOI decision and its continuing significance

The third issue is the continuing significance of the 2014 FOI decision.

Enviroswim's 5 June 2026 FOI request expressly stated that it was made in the context of APVMA's earlier 2014 FOI decision concerning efficacy evidence for registered pool and spa sanitisers. The request recorded Enviroswim's position that APVMA had earlier been asked for scientific evidence demonstrating the efficacy of specified APVMA-registered products against APVMA's own efficacy guideline, and that APVMA refused access on the basis that the documents sought did not exist.

The issue is narrower:

What did the 2014 FOI decision actually mean, and has APVMA properly explained whether that evidentiary position has changed since then?

Investigation questions

The Ombudsman should ask APVMA:

What was the exact scope of the 2014 FOI request?

Which products were covered?

What searches were conducted?

What did APVMA mean when it concluded that the documents sought did not exist?

Did APVMA hold other efficacy material outside the precise scope of the 2014 request?

Has APVMA since obtained, created, received, reviewed or relied upon evidence that changes, qualifies or contradicts the 2014 position?

Has APVMA ever provided Enviroswim with a clear explanation of the continuing significance of the 2014 FOI decision?

12.6 Issue 4 - The 2026 FOI request and access-to-evidence handling

The fourth issue is APVMA's handling of the 5 June 2026 FOI request.

The request was detailed and specific. It sought documents concerning efficacy test reports, microbiological efficacy reports, scientific assessment reports, product performance assessments, registration decision records, internal scientific reviews, documents identifying whether efficacy data was required or assessed, documents identifying reliance on historical acceptance or external standards, and documents concerning APVMA's 2022 consultation and decision-making.

The request also made clear that it was not seeking commercially sensitive formulation information and asked APVMA to consider partial release with redactions where necessary.

The issue is whether APVMA handled this request in a way that was practical, transparent and fair.

Investigation questions

The Ombudsman should ask APVMA:

Did APVMA properly characterise the scope of the 5 June 2026 request?

Did APVMA separate product-specific documents from internal policy, search, briefing, scientific-review or decision records?

Did APVMA consider whether any part of the request could be processed under FOI?

Did APVMA provide formal reasons and review rights if it refused to process the request under FOI?

Did APVMA provide adequate assistance to refine the request while preserving the central evidence question?

Did APVMA's handling assist access to evidence, or did it create procedural uncertainty?

12.7 Issue 5 - The Agvet Code pathway and practical access

The fifth issue is whether APVMA's redirection of the FOI request into the Agvet Code access pathway provided meaningful access to the information sought.

Enviroswim does not deny that some product-specific records may be subject to the Agvet Code or confidentiality protections. The complaint is that APVMA should not use the existence of another pathway to avoid answering broader public-interest questions about evidence, reasons and regulatory confidence.

The Ombudsman should investigate whether the Agvet Code pathway was a practical answer to the request, particularly where Enviroswim was seeking not only product data but also internal records about APVMA's evidentiary basis, historical acceptance, prior registration, external standards, and the 2022 consultation process.

The APVMA response of 9 July 2026 confirms that efficacy is maintained by individual product, but it does not identify the underlying reports or assessment conclusions corresponding to the spreadsheet supplied on 24 June. The Ombudsman is therefore asked to examine whether APVMA provided meaningful access to the evidence, rather than only an index of records and an explanation of the product-specific filing structure.

Investigation questions

The Ombudsman should ask APVMA:

Which parts of Enviroswim's request did APVMA consider to be covered by the Agvet Code?

Which parts, if any, were not covered by the Agvet Code?

Did APVMA consider processing non-product-specific records under FOI?

Did the Agvet Code process provide access to underlying scientific reports, assessment conclusions and decision records?

Did APVMA accurately and clearly distinguish between the spreadsheet extract or index supplied on 24 June 2026 and the underlying efficacy studies to which the extract may refer?

After Enviroswim's clarification of 9 July 2026, did APVMA identify the specific product reports and assessment records requested, or explain why they could not be provided?

If access was limited by confidentiality or protected data provisions, did APVMA provide a non-confidential summary or document schedule?

Did APVMA explain how Enviroswim could obtain the answer to the central evidence question in practice?

12.8 Issue 6 - Legacy products and the evidentiary baseline

The sixth issue is whether APVMA has adequately explained the evidentiary baseline for legacy registered products.

APVMA response Ref MC26-000919, bearing the date 4 May 2026 and transmitted to Enviroswim on 29 May 2026, states that products are assessed at the time of registration and that the legislative framework does not require registered products to continually re-demonstrate compliance absent a trigger.

That position creates a direct question:

If legacy products do not continually re-demonstrate compliance, what evidence or reasoning supports continued regulatory confidence in them?

Investigation questions

The Ombudsman should ask APVMA:

Which registered pool and spa sanitiser products or product classes are legacy products?

Were those products assessed against current APVMA pool and spa sanitiser efficacy guidance?

If not, what earlier criteria applied?

Does APVMA still hold the original evidence submitted for those products?

Does APVMA consider that original evidence equivalent to current efficacy expectations?

If APVMA relies on historical use or prior registration, how is that reliance documented?

Has APVMA ever prepared an evidence map for legacy pool and spa sanitiser product classes?

12.9 Issue 7 - Regulatory parity between incumbent products and alternative technologies

The seventh issue is regulatory parity.

The chronology records that Enviroswim has raised concerns about grandfathered chemical sanitisers, evidentiary burden on innovation, chlorine, hydrogen peroxide, PHMB and lack of equivalent contemporary proof for legacy products.

The Ombudsman should investigate whether APVMA has adequately explained why different evidence expectations may apply to incumbent legacy products and newer or alternative technologies.

The complaint is not that all technologies must be tested identically. Different technologies may require different evidence. But the reason for different treatment should be transparent, rational and documented.

Investigation questions

The Ombudsman should ask APVMA:

Does APVMA apply the same evidence principles to incumbent products and alternative technologies?

If not, why not?

Are differences based on chemistry, product type, historical registration, current guidance, risk, evidence availability or another factor?

Has APVMA explained those differences to Enviroswim?

Has APVMA considered whether unclear evidence standards disadvantage Australian innovation?

Does APVMA accept that incumbent products may operate as market benchmarks?

If so, has APVMA identified the evidence basis for that benchmark status?

12.10 Issue 8 - The 2022 proposed amendments and decision not to proceed

The eighth issue is the 2022 consultation concerning proposed amendments to how certain pool and spa chemicals are assessed.

APVMA response Ref MC26-000919, bearing the date 4 May 2026 and transmitted to Enviroswim on 29 May 2026, states that the consultation considered whether changes to guidance for future regulatory decisions were warranted, that submissions were considered, and that APVMA did not proceed with the proposed amendments because it considered the existing framework and guidance appropriate.

That explanation is important but incomplete.

The Ombudsman should investigate what records explain the decision.

Investigation questions

The Ombudsman should ask APVMA:

What prompted the 2022 proposed amendments?

What problem was APVMA seeking to solve?

What submissions were received?

What scientific evidence was considered?

What internal assessment, briefing note or decision record was prepared?

Who made the decision not to proceed?

What reasons were recorded?

Were legacy registered products considered?

Was Enviroswim's long-running concern considered?

Was the 2014 FOI decision considered?

Was the public consultation page updated to reflect the final decision?

12.11 Issue 9 - Reconsideration triggers and APVMA's handling of new information

The ninth issue is whether APVMA properly considered whether Enviroswim's material should trigger review, reconsideration or further regulatory action.

APVMA response Ref MC26-000919, bearing the date 4 May 2026 and transmitted to Enviroswim on 29 May 2026, states that where new information emerges relevant to whether registered products continue to meet statutory criteria, APVMA may consider whether further regulatory action is required.

That creates a practical question:

Did APVMA assess Enviroswim's information against that threshold, and if not, why not?

Investigation questions

The Ombudsman should ask APVMA:

Did APVMA assess Enviroswim's correspondence and supporting documents as potential reconsideration information?

If yes, what was the outcome?

If no, why not?

What threshold does APVMA apply when deciding whether information may trigger reconsideration?

Did APVMA provide Enviroswim with guidance on what further evidence would be required?

Did APVMA record reasons for not commencing reconsideration or review?

Has APVMA ever considered a broader product-class review of pool and spa sanitiser efficacy?

12.12 Issue 10 - Adequacy of APVMA's reasons

The tenth issue is the adequacy of APVMA's reasons.

APVMA has provided responses. The complaint is not that APVMA ignored Enviroswim completely. The complaint is that APVMA's responses appear to have addressed process more than substance.

A reasoned response should have answered the key questions directly:

what evidence APVMA holds;

what evidence APVMA has assessed;

what evidence APVMA relies upon;

whether legacy products were assessed under current or earlier standards;

whether APVMA relies on historical acceptance;

what would trigger reconsideration;

why the 2022 proposed amendments did not proceed;

whether the 2014 FOI position has changed.

The Ombudsman should investigate whether APVMA's reasons were sufficient.

Investigation questions

The Ombudsman should ask APVMA:

Did APVMA provide issue-by-issue reasons?

Did APVMA answer the evidence question or mainly describe the legal framework?

Did APVMA's 9 July 2026 response answer the evidence question, or did it mainly explain how product-specific records are maintained?

Was it sufficient to characterise the spreadsheet extract as representing identified efficacy studies without providing or specifically identifying the underlying reports, results and APVMA assessment conclusions?

Did APVMA explain the basis of continued regulatory confidence in major sanitiser classes?

Did APVMA explain the relevance of the 2014 FOI decision?

Did APVMA explain why the 2022 proposed amendments did not proceed?

Did APVMA explain how Enviroswim could obtain the evidence or trigger review?

12.13 Issue 11 - Record-keeping and document retrieval

The eleventh issue is record-keeping and document retrieval.

The 2026 FOI request sought not only scientific reports but also documents recording searches, internal reviews, decisions, policy positions and whether evidence was held, unavailable, waived, not required or unable to be located.

The Ombudsman should investigate whether APVMA's records are adequate to support public confidence in the regulation of pool and spa sanitisers.

Investigation questions

The Ombudsman should ask APVMA:

Does APVMA maintain product-class evidence records for pool and spa sanitisers?

Does APVMA maintain records showing which efficacy criteria applied at registration?

Can APVMA retrieve original efficacy data for legacy registered products?

Does APVMA hold records showing whether products were assessed against later guidance?

Does APVMA keep records of why efficacy data was waived, not required or accepted on an alternative basis?

Are APVMA's records sufficient to answer reasonable public-interest questions about regulatory confidence?

12.14 Issue 12 - Confidential information versus public regulatory explanation

The twelfth issue is the distinction between confidential product information and public regulatory explanation.

Enviroswim has not asked for commercially confidential formulation material. Its 5 June 2026 request expressly excluded commercially confidential formulation information, provided APVMA considered partial release with redactions before refusing access in full.

The Ombudsman should investigate whether APVMA can provide non-confidential explanations of its evidence basis without disclosing protected commercial information.

Investigation questions

The Ombudsman should ask APVMA:

What information is genuinely confidential or protected?

What information can be released or summarised without breaching confidentiality?

Can APVMA provide a non-confidential evidence-category statement?

Can APVMA identify whether evidence exists without disclosing protected details?

Can APVMA explain whether it relies on laboratory reports, field trials, literature, historical acceptance, external standards or prior registration without disclosing confidential product data?

12.15 Issue 13 - Public-interest handling

The thirteenth issue is whether APVMA treated the matter as a public-interest issue.

Enviroswim's FOI request expressly stated that the documents concern products used in residential pools, public aquatic facilities, learn-to-swim centres, hotels, resorts, schools, body corporates, health and aged-care facilities, and commercial recreational environments. The request also identified relevance to public health, workplace exposure, consumer protection, aquatic facility safety, public facility management and confidence in Commonwealth chemical regulation.

The Ombudsman should investigate whether APVMA handled the matter with that public-interest context in mind.

Investigation questions

The Ombudsman should ask APVMA:

Did APVMA consider the public-interest basis of Enviroswim's request?

Did APVMA consider whether disclosure or explanation would assist public understanding?

Did APVMA consider providing a public statement or guidance note?

Did APVMA consider the interests of consumers, pool operators, aquatic workers and public-health stakeholders?

Did APVMA treat the matter too narrowly as a product-file access issue?

12.16 Issue 14 - APVMA Board and governance oversight

The fourteenth issue is whether APVMA's governance response was adequate.

The chronology records that Enviroswim sent further correspondence to the APVMA CEO and Board in April and May 2026, and that a formal historical summary was provided to the Board on 16 May 2026 identifying earlier APVMA correspondence and restating that the same concerns had remained unresolved for more than two decades.

The Ombudsman should investigate whether this material received appropriate governance-level consideration.

Investigation questions

The Ombudsman should ask APVMA:

Was Enviroswim's 16 May 2026 historical summary provided to the Board?

Was it considered by the Board, the CEO, legal officers or scientific officers?

Was any briefing prepared?

Were the historical records checked?

Was any decision made about whether the matter required escalation, review or independent assessment?

Were reasons recorded?

12.17 Issue 15 - Systemic implications beyond Enviroswim

The fifteenth issue is whether the matter reveals a broader systemic problem.

The issue may not be limited to Enviroswim. It may concern how APVMA handles legacy chemical products where current guidance, older registrations, confidential product files, FOI exclusions, Agvet Code access and public expectations do not align neatly.

The Ombudsman should consider whether APVMA needs a clearer public process for explaining the evidence basis of legacy products.

Investigation questions

The Ombudsman should ask APVMA:

Does APVMA have a general policy for explaining the evidence basis of legacy products?

Does APVMA distinguish publicly between products assessed under current guidance and products assessed under earlier arrangements?

Does APVMA have a process for reviewing legacy product classes where later performance expectations are developed?

Does APVMA have a process for providing non-confidential evidence-category explanations?

Does APVMA need to improve guidance for pool and spa sanitiser products specifically?

12.18 Documents the Ombudsman should request from APVMA

Enviroswim requests that the Ombudsman consider asking APVMA to produce or identify the following categories of documents:

Category	Documents sought
2014 FOI records	Request scope, search records, decision records, file notes and any records explaining why documents were not located.
Legacy product evidence	Product-class evidence records for chlorine-based sanitisers, hydrogen peroxide, PHMB/biguanide, bromine, salt-chlorination and mineral/salt systems.
Efficacy assessment records	Laboratory reports, field-trial reports, assessment summaries, delegate reasons and scientific reviews.
Historical acceptance records	Documents identifying reliance on prior registration, history of use, external standards, OECD guidance, state health guidance, overseas data or manufacturer declarations.
2022 consultation records	Submissions analysis, internal briefing, scientific assessment, legal/policy advice and final decision record.
Reconsideration records	Any documents considering whether Enviroswim's material triggered review or reconsideration.
FOI / Agvet Code records	Records explaining why the 2026 FOI request was redirected, and whether any part remained capable of FOI processing.
Governance records	CEO, Board, legal or scientific briefings concerning Enviroswim's correspondence and historical claims.
Public guidance records	Any documents considering whether APVMA should publish guidance distinguishing registration status from contemporary efficacy evidence.

12.19 Findings Enviroswim asks the Ombudsman to consider

Enviroswim asks the Ombudsman to consider whether the following findings are open on the evidence:

APVMA has not provided a sufficiently clear consolidated answer to Enviroswim's central evidence question.

APVMA has relied heavily on process explanations without adequately identifying the evidence basis for continued regulatory confidence in legacy products.

APVMA has not clearly explained the practical distinction between registration status and contemporary efficacy evidence.

APVMA has not adequately explained the continuing significance of the 2014 FOI decision.

APVMA has not adequately explained why the 2022 proposed amendments did not proceed.

APVMA has not clearly explained whether Enviroswim's material was assessed as a possible reconsideration trigger.

APVMA's handling of the 2026 FOI / Agvet Code access issue may not have provided practical access to the evidence question being asked.

APVMA should provide a non-confidential evidence-category statement for major pool and spa sanitiser classes.

12.20 Remedies sought through Ombudsman investigation

Enviroswim asks the Ombudsman to consider recommending that APVMA:

provide a consolidated written statement responding directly to Enviroswim's central evidence question;

identify the evidence categories relied upon for major registered pool and spa sanitiser product classes;

distinguish between products assessed under current guidance and products registered under earlier arrangements;

explain whether chlorine-based sanitisers, hydrogen peroxide and PHMB/biguanide products have been assessed against APVMA's current pool and spa sanitiser efficacy expectations;

explain what evidence, if any, APVMA holds for legacy products;

explain whether APVMA relies on historical acceptance, prior registration, external standards, state health guidance, OECD guidance, overseas data, manufacturer declarations or other sources;

provide records and reasons explaining why the 2022 proposed amendments did not proceed;

clarify the status and significance of the 2014 FOI decision;

clarify the handling of the 2026 FOI request and any review rights;

provide a practical pathway for Enviroswim to submit material capable of triggering reconsideration or review;

publish plain-language, technology-neutral guidance explaining the distinction between APVMA registration and contemporary efficacy evidence;

consider whether an independent expert review of pool and spa sanitiser efficacy evidence is warranted.

12.21 Chapter conclusion

Enviroswim does not allege that APVMA is corrupt, biased or deliberately protecting incumbent products.

Enviroswim's complaint is that APVMA has not adequately answered a repeated, legitimate and public-interest evidence question.

APVMA has stated that products are assessed at the time of registration, that registered products do not continually re-demonstrate compliance absent a trigger, and that the 2022 proposed amendments did not proceed after consideration.

Enviroswim has asked for documents showing whether APVMA holds, has assessed or has relied upon efficacy evidence for registered pool and spa sanitiser products, and whether legacy products are supported by contemporary evidence, historical practice, prior registration, external standards, state guidelines, label claims, overseas data, manufacturer declarations or other sources.

The Ombudsman should investigate the gap between those two positions.

The central proposition is:

The question is not whether APVMA has a process. The question is whether APVMA has provided a fair, reasoned and transparent answer to the evidence issue that Enviroswim has raised for more than two decades.

Chapter 13 - Requested Remedies, Outcomes and Proposed Ombudsman Recommendations

13.1 Purpose of this chapter

This chapter sets out the remedies, outcomes and proposed recommendations Enviroswim asks the Commonwealth Ombudsman to consider.

The complaint does not ask the Ombudsman to become the technical regulator for swimming pool and spa sanitisers. It does not ask the Ombudsman to decide whether any particular sanitiser product should be registered, suspended, cancelled or preferred.

The remedies sought are administrative.

They are directed to transparency, adequacy of reasons, document access, regulatory consistency, legacy-product explanation, public-interest accountability and fair treatment of Australian innovation.

The central requested outcome is this:

APVMA should be required to provide a clear, consolidated and evidence-based explanation of the basis on which it maintains regulatory confidence in registered swimming pool and spa sanitiser products, particularly legacy products, and should explain how that basis compares with the evidence expectations applied to new or alternative technologies.

13.2 Principles guiding the requested remedies

The remedies requested in this complaint are guided by the following principles.

First, APVMA should not be required to disclose genuinely protected confidential commercial information unlawfully.

Second, APVMA should nevertheless be able to provide non-confidential explanations of the evidence categories and regulatory reasoning it relies upon.

Third, APVMA should distinguish clearly between registration status and contemporary efficacy evidence.

Fourth, APVMA should explain the treatment of legacy products registered or accepted under earlier arrangements.

Fifth, APVMA should provide adequate reasons for its responses to Enviroswim's repeated correspondence, the 2014 FOI issue, the 2026 FOI / Agvet Code handling, and the 2022 proposed amendments.

Sixth, APVMA should provide practical guidance on what information would be required to trigger reconsideration or review of existing pool and spa sanitiser products.

Seventh, APVMA should consider whether public guidance is needed to avoid misunderstanding by consumers, pool operators, state regulators and industry participants.

13.3 Remedy 1 - Consolidated written response to Enviroswim

Enviroswim requests that the Ombudsman recommend that APVMA provide a consolidated written response addressing the central issues raised over the course of Enviroswim's correspondence.

That response should not merely repeat prior statements about statutory processes, registration timing, reconsideration pathways or access mechanisms.

It should answer the substantive evidence question:

What evidence, assessment material, regulatory reasoning or historical basis supports APVMA's continued confidence in registered swimming pool and spa sanitiser products?

The response should address:

chlorine-based sanitisers;

bromine-based sanitisers;

hydrogen peroxide products;

PHMB / biguanide products;

salt-chlorination products;

mineral/salt systems;

alternative or combined technologies where relevant.

This would directly address the unresolved issue created by Enviroswim's repeated requests and APVMA's responses referring to registration timing, non-cyclical reassessment and reconsideration triggers.

13.4 Remedy 2 - Evidence-category statement for major sanitiser classes

Enviroswim requests that the Ombudsman recommend that APVMA prepare a non-confidential evidence-category statement for major pool and spa sanitiser classes.

This statement should identify, for each major product class:

whether APVMA holds product-specific efficacy evidence;

whether APVMA holds laboratory efficacy reports;

whether APVMA holds field-trial evidence;

whether APVMA has conducted or holds scientific assessment records;

whether APVMA relies on published scientific literature;

whether APVMA relies on OECD guidance;

whether APVMA relies on Australian Standards;

whether APVMA relies on state or territory health guidance;

whether APVMA relies on historical acceptance or prior registration;

whether APVMA relies on overseas data or manufacturer declarations;

whether APVMA considers the product class assessed against current APVMA guidance;

whether APVMA considers the product class to be legacy in nature.

This remedy would not require disclosure of confidential formulae or protected commercial data. It would require APVMA to explain the type of evidence and reasoning it relies upon.

13.5 Proposed evidence-category table

The evidence-category statement could take the following form:

Product class	Evidence APVMA holds	Criteria applied	Current or legacy assessment	APVMA confidence basis
Chlorine-based sanitisers	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
Bromine-based sanitisers	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
Hydrogen peroxide	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
PHMB / biguanide	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
Salt chlorination	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
Mineral/salt systems	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA
Alternative / combined systems	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA	To be identified by APVMA

This would be a practical, fair and transparent outcome.

13.6 Remedy 3 - Clarification of registration status versus efficacy evidence

Enviroswim requests that the Ombudsman recommend that APVMA publish or provide a clear explanation distinguishing:

registration status;
 original registration assessment;
 contemporary efficacy assessment;
 legacy acceptance;
 renewal;
 reconsideration;
 post-market review;
 reliance on external standards or guidance.

This distinction is central to the complaint.

APVMA has stated that products are assessed at registration and that registered products do not continually re-demonstrate compliance absent a trigger.

That may be the statutory position. But the public should not be left to assume that every registered product has been assessed against current performance expectations.

The requested remedy is simple: APVMA should explain plainly what registration means and what it does not mean.

13.7 Remedy 4 - Explanation of legacy product treatment

Enviroswim requests that APVMA be asked to explain how legacy registered pool and spa sanitiser products are treated.

That explanation should address:

whether products registered before later guidance are reassessed against current guidance;
 whether APVMA holds original registration evidence for those products;
 whether APVMA considers earlier evidence equivalent to current expectations;
 whether APVMA relies on long history of use;
 whether APVMA relies on external standards or literature;

whether legacy products are ever reviewed as a class;

what information would be required to trigger reconsideration;

whether APVMA has considered the market impact of legacy products operating as benchmarks.

This recommendation is important because the legacy-product issue is the core of the regulatory parity problem.

13.8 Remedy 5 - Clarification of the 2014 FOI decision

Enviroswim requests that the Ombudsman recommend that APVMA provide a clear written explanation of the 2014 FOI decision and its continuing significance.

That explanation should identify:

the exact scope of the 2014 request;

the three named products involved;

the searches conducted;

the files and databases searched;

whether any relevant evidence existed outside the final request scope;

whether APVMA holds historical efficacy evidence for those products;

whether APVMA later obtained or reviewed any evidence that changed the 2014 position;

whether APVMA considers those products to meet, not meet, or not require assessment against later pool and spa efficacy guidance.

This is necessary because Enviroswim's 5 June 2026 request was expressly framed around whether the evidentiary position had changed since the 2014 FOI decision.

13.9 Remedy 6 - Review of the 2026 FOI / Agvet Code handling

Enviroswim requests that the Ombudsman investigate and, if appropriate, recommend that APVMA review its handling of the 5 June 2026 FOI request.

That review should consider:

whether APVMA properly treated the whole request as excluded from FOI;

whether some documents should have been considered under FOI;

whether product-specific documents were properly separated from internal policy, briefing, search and decision records;

whether APVMA provided adequate reasons and review rights;

whether APVMA provided sufficient assistance to refine the request;

whether the Agvet Code pathway provided practical access to the central evidence question;

whether APVMA could provide a non-confidential document schedule or summary.

This remedy does not ask APVMA to ignore statutory confidentiality. It asks APVMA to handle the request in a way that is practical, reasoned and transparent.

13.10 Remedy 7 - Production of a document schedule

Enviroswim requests that APVMA provide a document schedule identifying the categories of records it holds concerning swimming pool and spa sanitiser efficacy.

The schedule should distinguish between:

laboratory efficacy reports;

field-trial reports;

APVMA scientific assessments;

delegate decision records;

internal scientific reviews;

correspondence with registrants;

reliance on published literature;

reliance on OECD guidance;

reliance on state health guidance;

reliance on Australian Standards;

records concerning historical acceptance or prior registration;

records concerning the 2022 consultation;

records concerning searches undertaken in response to the 2014 and 2026 access requests.

This would allow Enviroswim and the Ombudsman to distinguish between documents that exist but may be protected, documents that do not exist, and documents that exist only in summary or spreadsheet form.

13.11 Remedy 8 - Reasons and records for the 2022 proposed amendments

Enviroswim requests that the Ombudsman recommend that APVMA provide the reasons and records explaining why the 2022 proposed amendments did not proceed.

Those records should include, where they exist:

the consultation proposal;

submissions received;

submission analysis;

internal scientific assessment;

internal legal or policy advice;

briefing notes;

decision records;

any records considering legacy products;

any records considering alternative technologies;

any records considering the 2014 FOI decision or Enviroswim's prior correspondence;

any records explaining why existing guidance was considered sufficient.

APVMA's later statement that the amendments did not proceed after consideration of submissions and available evidence is not enough by itself.

The Ombudsman should ask what the reasons were and where they are recorded.

13.12 Remedy 9 - Update or correction of public consultation material

Enviroswim requests that the Ombudsman recommend that APVMA review and update its public material concerning the 2022 consultation.

If the consultation has concluded and APVMA has decided not to proceed, the public record should say so clearly.

If the matter remains under consideration, the public record should say that clearly.

Public consultation pages should not remain in a state that leaves stakeholders uncertain about whether a proposed regulatory change was abandoned, deferred, concluded or still active.

This is a basic transparency remedy.

13.13 Remedy 10 - Reconsideration trigger guidance

Enviroswim requests that the Ombudsman recommend that APVMA provide clear written guidance explaining what information would be sufficient to trigger reconsideration or review of existing pool and spa sanitiser products.

APVMA has indicated that registered products are not required to continually re-demonstrate compliance unless APVMA becomes aware of information indicating that the product may no longer satisfy statutory criteria.

Enviroswim therefore asks APVMA to explain:

what kind of information would be treated as relevant;

what threshold applies;

whether third-party technical material can trigger consideration;

whether FOI outcomes can contribute to a trigger;

whether absence of locatable evidence can contribute to a trigger;

whether published scientific developments can contribute to a trigger;

whether state health, workplace exposure or public-health developments can contribute to a trigger;

whether Enviroswim's material has already been assessed against that threshold.

This would give Enviroswim and other stakeholders a clear practical pathway.

13.14 Remedy 11 - Assessment of Enviroswim's material as potential reconsideration information

Enviroswim requests that the Ombudsman recommend that APVMA state whether it has assessed Enviroswim's long-running material as possible reconsideration information.

If APVMA has assessed it, APVMA should provide reasons for the outcome.

If APVMA has not assessed it, APVMA should explain why not.

The relevant material includes:

historical APVMA correspondence;

the 2014 FOI issue;

Enviroswim's scientific and technical material;

the 2022 proposed amendments;

the 2026 correspondence;

the 2026 FOI / Agvet Code material;

public-health and workplace exposure material raised by Enviroswim;

any evidence concerning legacy product efficacy or absence of locatable evidence.

This remedy would resolve the current uncertainty about whether APVMA has treated Enviroswim's material as merely correspondence or as information relevant to possible regulatory action.

13.15 Remedy 12 - Non-confidential public guidance on pool and spa sanitiser efficacy

Enviroswim requests that the Ombudsman recommend that APVMA publish technology-neutral guidance explaining the evidence framework for pool and spa sanitisers.

The guidance should explain:

what APVMA registration means;

what APVMA registration does not necessarily mean;

what efficacy evidence is expected of new products;

how older products are treated;

how APVMA uses OECD guidance;

how APVMA uses Australian Standards or state health guidance;

how APVMA treats product classes with long histories of use;

how APVMA handles confidential evidence;

how stakeholders can raise evidence concerns;

how reconsideration or review may be triggered.

This would assist consumers, pool operators, public aquatic facilities, industry participants, regulators and innovators.

13.16 Remedy 13 - Independent expert review

Enviroswim requests that the Ombudsman consider recommending, or inviting APVMA to consider, an independent expert review of the evidentiary baseline for registered pool and spa sanitiser products.

The review could examine:

major sanitiser classes;
APVMA-held efficacy evidence;
published scientific literature;
laboratory and field-testing expectations;
legacy-product treatment;
public-health performance expectations;
workplace exposure implications;
operational realities of public aquatic facilities;
regulatory parity between incumbent and alternative technologies;
whether updated guidance or reconsideration is warranted.

Such a review should be technology-neutral and should not be designed to advantage Enviroswim or any incumbent supplier.

Its purpose would be to restore confidence in the evidentiary baseline.

13.17 Remedy 14 - Internal review of APVMA correspondence handling

Enviroswim requests that APVMA conduct an internal review of how it handled Enviroswim's correspondence from 2025-2026, and where appropriate, the longer historical record.

That review should consider whether APVMA:

correctly identified the central question being asked;
addressed substance rather than only process;
escalated the matter appropriately;
involved relevant scientific, legal and governance officers;
considered Board-level oversight where appropriate;
maintained adequate records;
provided adequate reasons;
gave practical assistance with access-to-information pathways;
considered the public-interest significance of the matter.

This would help determine whether APVMA's handling met good administrative standards.

13.18 Remedy 15 - APVMA Board governance clarification

Enviroswim requests that the Ombudsman consider recommending that APVMA clarify how Enviroswim's correspondence to the APVMA CEO and Board was handled.

The clarification should identify:

whether the Board received the historical summary;
whether any Board briefing was prepared;
whether scientific or legal advice was sought;
whether APVMA reviewed historical files;
whether APVMA considered systemic implications;
whether APVMA decided that no further action was required;

what reasons were recorded.

This is important because the chronology records that Enviroswim escalated the issue to APVMA's CEO and Board in 2026.

13.19 Remedy 16 - Public-interest handling protocol

Enviroswim requests that the Ombudsman consider recommending that APVMA develop or improve a protocol for handling repeated public-interest evidence concerns raised by technically informed stakeholders.

Such a protocol should ensure that APVMA:

- identifies the central issue;
- distinguishes private commercial interest from broader public interest;
- assesses whether scientific review is required;
- identifies whether the matter raises systemic implications;
- explains available access pathways clearly;
- separates confidential product data from public regulatory reasoning;
- provides adequate reasons;
- preserves review rights;
- keeps proper records.

This would reduce the risk of future matters being handled only through fragmented correspondence.

13.20 Remedy 17 - Practical access pathway for Enviroswim

Enviroswim requests that APVMA provide a practical access pathway to resolve the evidence issue without unnecessary duplication, uncertainty or excessive procedural burden.

That pathway should specify:

- which documents can be sought under FOI;
- which documents must be sought under the Agvet Code;
- what fees apply;
- what document descriptions are required;
- what information can be released;
- what information can only be summarised;
- what review rights exist;
- whether APVMA can provide a document schedule before full processing;
- whether APVMA can provide staged access.

This would be a practical remedy arising directly from the 2026 FOI / Agvet Code problem.

13.21 Remedy 18 - Correction of market misunderstanding

Enviroswim requests that APVMA consider whether public clarification is needed to prevent misunderstanding of APVMA registration in the pool and spa market.

The clarification should explain that registration may reflect different evidentiary histories, including:

- current assessment;
- historical assessment;
- prior registration;
- external standards;
- literature-based support;
- manufacturer data;

absence of reconsideration trigger;

class-level rather than product-specific evidence.

This would help prevent APVMA registration from being used or misunderstood as proof that every registered product has been assessed under current efficacy guidance.

13.22 Remedy 19 - Technology-neutral regulatory statement

Enviroswim requests that APVMA issue a technology-neutral statement confirming that all pool and spa sanitation technologies, including traditional chemical systems and alternative systems, should be evaluated according to evidence appropriate to their mechanism, risks and claims.

Such a statement should make clear that:

APVMA does not prefer legacy products merely because they are familiar;

APVMA does not reject alternative technologies merely because they differ from traditional chemistry;

evidence expectations may differ by technology, but the basis for difference should be scientific and transparent;

regulatory confidence should be grounded in evidence, not assumption.

This would support fair treatment of innovation without giving Enviroswim preferential treatment.

13.23 Remedy 20 - Apology or acknowledgement where appropriate

Enviroswim requests that the Ombudsman consider whether APVMA should provide an acknowledgement or apology if the investigation finds that APVMA's handling was inadequate.

This is not the primary remedy sought.

The more important remedies are evidence clarification, reasons, document access, public guidance and regulatory parity.

However, if the Ombudsman finds that APVMA failed to answer repeated correspondence adequately, failed to provide procedural clarity, failed to explain review rights, or failed to handle the public-interest issue appropriately, then an acknowledgement or apology may be appropriate.

13.24 Remedy 21 - No immediate request for compensation

Enviroswim does not make a quantified compensation claim in this complaint chapter.

That is deliberate.

Any compensation claim would require separate evidence of loss, causation and quantum.

At this stage, Enviroswim seeks administrative remedies designed to correct the evidentiary and procedural problem.

However, Enviroswim reserves the right to provide further material concerning commercial impact, regulatory burden, lost opportunity, legal cost, management time and reputational harm if required or invited.

13.25 Priority recommendations requested

Enviroswim asks that the Ombudsman give priority to the following recommendations:

APVMA provide a consolidated statement answering the central evidence question.

APVMA prepare a non-confidential evidence-category statement for major pool and spa sanitiser classes.

APVMA explain the treatment of legacy products and distinguish registration status from contemporary efficacy evidence.

APVMA clarify the 2014 FOI decision and whether the evidentiary position has changed.

APVMA review the handling of the 2026 FOI / Agvet Code response.

APVMA provide the records and reasons explaining why the 2022 proposed amendments did not proceed.

APVMA explain what information would trigger reconsideration or review.

APVMA publish technology-neutral guidance for stakeholders.

APVMA consider an independent expert review of the evidentiary baseline for pool and spa sanitisers.

These are the practical remedies most likely to resolve the complaint.

13.26 Proposed wording of Ombudsman recommendation

Enviroswim suggests the following form of recommendation for the Ombudsman's consideration:

That APVMA prepare and provide to Enviroswim, and where appropriate publish, a consolidated statement explaining the evidentiary basis for APVMA's regulatory confidence in registered swimming pool and spa sanitiser products, including the distinction between products assessed under current guidance and products registered under earlier arrangements; the role of historical acceptance, prior registration, external standards, OECD guidance, state health requirements, manufacturer data and scientific literature; the continuing significance of the 2014 FOI decision; the reasons for not proceeding with the 2022 proposed amendments; and the pathway by which evidence may trigger reconsideration or review.

That recommendation captures the heart of the complaint.

13.27 Proposed staged implementation

If the Ombudsman considers the remedies too broad to implement at once, Enviroswim proposes a staged approach.

Stage 1 - Clarification

APVMA provides a consolidated written response, explains the 2014 FOI decision, clarifies the 2026 FOI / Agvet Code handling, and identifies review rights.

Stage 2 - Evidence map

APVMA prepares a non-confidential evidence-category statement for major sanitiser classes.

Stage 3 - 2022 consultation records

APVMA provides the decision record and reasons explaining why the proposed amendments did not proceed.

Stage 4 - Public guidance

APVMA publishes technology-neutral guidance explaining registration status, efficacy evidence, legacy products and reconsideration pathways.

Stage 5 - Independent review

APVMA considers whether an independent expert review is warranted.

This staged approach is practical and proportionate.

13.28 Why the requested remedies are reasonable

The requested remedies are reasonable because they do not require APVMA to prejudge technical outcomes.

They do not require APVMA to deregister any product.

They do not require APVMA to endorse Enviroswim.

They do not require unlawful disclosure of confidential commercial information.

They require APVMA to explain its own regulatory position clearly.

That is a basic requirement of good public administration.

13.29 Chapter conclusion

The remedies sought by Enviroswim are practical, proportionate and directed to administrative fairness.

The central problem is not that APVMA has failed to maintain a process. APVMA has referred repeatedly to processes, including registration, reconsideration, guidance, FOI and the Agvet Code.

The problem is that those processes have not produced a clear answer to the central evidence question.

Enviroswim therefore asks the Ombudsman to recommend that APVMA provide the missing clarity: what evidence supports registered pool and spa sanitiser products, how legacy products are treated, what happened with the 2014 FOI issue, why the 2022 proposed amendments did not proceed, and what practical pathway exists for reconsideration or review.

The central proposition remains:

The remedy for regulatory uncertainty is not more procedural redirection. The remedy is a clear, reasoned and evidence-based explanation.

Chapter 14 - Appendices and Evidence Index

14.1 Evidentiary basis

This complaint is supported by primary APVMA correspondence, Freedom of Information and Agvet Code records, APVMA published guidance and consultation material, and Enviroswim's technical and historical records.

The documents identified below are relied upon as primary evidence or supporting context. The complaint distinguishes between agency records, Enviroswim correspondence, technical evidence and matters requiring APVMA explanation or Ombudsman investigation.

14.2 Core evidence index

Reference	Document	Relevance
APVMA-001	Early APVMA correspondence, 2001-2004	Establishes the history and continuity of Enviroswim's regulatory engagement.
FOI14-001	2014 FOI request	Defines the earlier request for efficacy evidence concerning named registered products.
FOI14-003	APVMA FOI decision dated 15 August 2014	Records that APVMA did not locate documents within the defined request scope.
GUIDE-001	APVMA guideline: Demonstrating efficacy of pool and spa sanitisers	Sets out APVMA's published efficacy expectations.
CONSULT-001	APVMA 2022 consultation on proposed efficacy amendments	Records APVMA's proposal to introduce specific performance-based criteria.
APVMA-008	APVMA response Ref MC26-000919, bearing the date 4 May 2026 and transmitted on 29 May 2026	States that products are assessed at registration and do not continually re-demonstrate compliance absent a trigger.
FOI26-001	Enviroswim FOI request dated 5 June 2026	Seeks the updated documentary record from 15 August 2014 onward.
FOI26-004	APVMA response dated 11 June 2026	Declines FOI processing and directs the request to the Agvet Code pathway.
FOI26-005	Enviroswim response dated 11 June 2026	Cooperates with the Agvet Code pathway while preserving the FOI position and central evidence question.
AGVET-003	APVMA spreadsheet extract dated 24 June 2026	Identifies product and data-record references but does not contain the underlying scientific reports.
AGVET-004	Enviroswim evidence-status statement and narrowed request dated 24 June 2026	Records what had and had not been produced and narrows the request to chlorine, hydrogen peroxide and PHMB evidence.

Reference	Document	Relevance
AGVET-006	APVMA response dated 9 July 2026	Confirms that efficacy records are maintained by individual product and characterises the 24 June extract as representing identified efficacy studies.
AGVET-007	Enviroswim clarification dated 9 July 2026	Clarifies the distinction between an index and an efficacy report and again requests the underlying product-specific studies and APVMA assessments.
BOARD-006	Historical summary to the APVMA Board dated 16 May 2026	Records that the APVMA Board was placed on notice of the long-running concerns.
TECH-001	Tweed Laboratory Centre ES1 efficacy report	Provides an example of a scientific efficacy report containing methodology, conditions, results and conclusions.

14.3 Additional supporting material

Further technical reports, accreditation records, historical correspondence, public-interest material and impact evidence can be provided to the Ombudsman as required.

14.4 Evidence control statement

The complaint does not ask the Ombudsman to treat every supporting document as conclusive proof of every matter asserted. It distinguishes between primary documents, supporting material, reasonable inferences and matters requiring APVMA explanation or Ombudsman investigation.

Chapter 15 - Conclusion and Formal Request for Ombudsman Investigation

15.1 Purpose of this chapter

This chapter concludes the complaint and formally requests that the Commonwealth Ombudsman investigate APVMA's handling of Enviroswim's long-running concerns about swimming pool and spa sanitiser regulation.

The complaint is not framed as a technical product dispute. It is not a request for the Ombudsman to decide whether chlorine, hydrogen peroxide, PHMB/biguanide products, bromine, salt chlorination, mineral/salt systems, Enviroswim or any other sanitiser technology is superior.

The complaint is framed as a matter of public administration.

The issue is whether APVMA has acted fairly, reasonably, transparently and consistently with good administration in responding to Enviroswim's repeated requests for clarification of the evidence basis supporting registered swimming pool and spa sanitiser products.

The complaint asks the Ombudsman to investigate the gap between:

APVMA's registration and regulatory processes; and

the clear identification of the evidence, records and reasoning supporting continued regulatory confidence in registered pool and spa sanitiser products, particularly legacy products.

15.2 The central complaint

The central complaint is that APVMA has not provided a clear, consolidated and adequately reasoned answer to a legitimate evidence question raised by Enviroswim over many years.

That question is:

What scientific evidence, assessment material, regulatory reasoning or historical basis supports APVMA's continued regulatory confidence in registered swimming pool and spa sanitiser products, particularly legacy chlorine-based products, hydrogen peroxide products and PHMB/biguanide products?

APVMA has responded to Enviroswim. That is acknowledged.

However, Enviroswim's concern is that APVMA's responses have largely referred to process, including registration timing, statutory criteria, reconsideration triggers, OECD guidance, the absence of cyclical re-demonstration, the 2022 consultation outcome, FOI limitations and Agvet Code access pathways.

Those matters are relevant, but they have not resolved the central evidence issue.

A regulator's process is not the same as the evidence supporting regulatory confidence.

15.3 Why Ombudsman investigation is warranted

Ombudsman investigation is warranted because the matter concerns more than one company's dissatisfaction with a regulator.

The complaint raises issues of:

adequacy of reasons;
access to information;
regulatory transparency;
treatment of legacy products;
record-keeping;
public-interest accountability;
fair treatment of innovation;
consumer understanding;
public-health confidence;
workplace and aquatic-facility relevance.

Swimming pool and spa sanitisers are used in residential pools, public aquatic facilities, learn-to-swim centres, hotels, resorts, schools, body corporate pools, health and aged-care settings, and commercial recreational environments.

The public is entitled to confidence that registered products are supported by an identifiable evidentiary basis, or that any alternative basis for regulatory confidence is clearly explained.

15.4 The 2014 FOI decision remains unresolved

The 2014 FOI decision remains one of the strongest reasons for Ombudsman investigation.

The decision does not prove that any particular sanitiser product is ineffective or that APVMA holds no evidence for all products.

However, it appears to show that APVMA did not locate documents within the scope of a defined request seeking scientific evidence that three named registered pool sanitiser products met APVMA's pool and spa efficacy guideline.

That created an unresolved administrative question.

If APVMA did not locate those documents, then APVMA should be able to explain:

whether relevant evidence existed outside the request scope;
whether the products were accepted under earlier criteria;
whether APVMA still holds the original evidence;
whether that evidence is considered equivalent to later guidance;
whether continuing confidence rests on historical acceptance, prior registration, literature, overseas data, state guidance, Australian Standards, manufacturer data or another basis.

15.5 The 2026 FOI / Agvet Code handling did not resolve the issue

The 2026 access-to-information process was a direct attempt to determine whether APVMA's evidentiary position had changed since 2014.

Enviroswim requested documents from 15 August 2014 onward concerning efficacy evidence, assessment material, regulatory reasoning, internal reviews, decision records and reliance on historical acceptance or external standards.

APVMA redirected the request away from FOI and into the Agvet Code access pathway.

Enviroswim cooperated with that pathway while preserving its position that some documents may still properly fall under FOI.

The later spreadsheet extract did not resolve the central issue because it did not provide the underlying reports, study methods, laboratory test conditions, results or APVMA assessment conclusions needed to understand whether the relevant sanitiser systems met APVMA's applicable efficacy requirements.

APVMA's further response of 9 July 2026 confirmed that efficacy is considered and maintained at individual product level and stated that the spreadsheet extract represented identified efficacy studies. It did not, however, provide or specifically identify the underlying scientific reports, test results or APVMA assessment conclusions associated with those records.

Enviroswim replied on 9 July 2026, clarified that the spreadsheet was an index rather than the underlying studies, narrowed the request to product-specific scientific and assessment material, accepted appropriate redactions, and requested clear confirmation if no such documents are held. The evidentiary question therefore remained unresolved after further clarification and narrowing of the request.

That is why Ombudsman investigation is needed.

A procedural access pathway is not a substitute for a clear answer to a public-interest evidence question.

15.6 The legacy product issue remains unexplained

APVMA's position appears to be that products are assessed at the time of registration and are not required to continually re-demonstrate compliance unless a statutory trigger arises.

That may be the legal architecture.

But it does not explain the evidentiary baseline for legacy products.

If older products continue to operate as regulatory and market benchmarks, APVMA should be able to explain the evidence basis for that benchmark status.

The problem is not that legacy products exist. The problem is that their evidentiary basis has not been clearly identified, especially where newer or alternative technologies are expected to provide detailed evidence of efficacy.

Legacy registration may explain why a product remains on the Register. It does not, by itself, explain why that product should continue to be treated as having current, transparent and comparable evidence of efficacy.

15.7 The 2022 proposed amendments require explanation

The 2022 proposed amendments are also central.

APVMA publicly considered changes to how the efficacy of certain pool and spa chemicals is assessed. It later did not proceed with those amendments.

That may have been a legitimate decision. But the reasons matter.

The Ombudsman should investigate:

what problem APVMA was attempting to address in 2022;

what submissions and evidence were considered;

what internal analysis was undertaken;

why the amendments did not proceed;

whether legacy products were considered;

whether the 2014 FOI issue was considered;

whether Enviroswim's repeated concerns were considered;

whether the public consultation record was properly updated.

Where a regulator proposes clearer or stronger performance-based criteria and later does not proceed, the public is entitled to understand what changed and why.

15.8 APVMA's reasons have not been adequate

APVMA has provided responses, but Enviroswim submits that the reasons have not been adequate.

The responses have not clearly answered:

whether APVMA holds product-specific efficacy evidence for legacy products;
whether APVMA holds laboratory and field-trial evidence for major sanitiser classes;
whether legacy products were assessed against current guidance;
whether APVMA relies on earlier criteria, historical acceptance or external standards;
whether the 2014 FOI position has changed;
why the 2022 proposed amendments did not proceed;
whether Enviroswim's material was assessed as possible reconsideration information;
what specific evidence would be required to trigger review.

Those are not unreasonable questions.

They go to the heart of public confidence in the regulation of pool and spa sanitisers.

15.9 The complaint is restrained and evidence-based

Enviroswim has deliberately framed this complaint carefully.

It does not allege that APVMA is corrupt.

It does not allege that APVMA has acted in bad faith.

It does not ask the Ombudsman to declare that any particular product is ineffective.

It does not ask the Ombudsman to endorse Enviroswim.

It asks for investigation into whether APVMA has handled the matter fairly, transparently and with adequate reasons.

That is the proper role of the Ombudsman.

15.10 Formal request for investigation

Enviroswim formally requests that the Commonwealth Ombudsman investigate APVMA's handling of this matter, including:

APVMA's responses to Enviroswim's correspondence from 2001-2004 through to 2026;

the 2014 FOI decision and its continuing significance;

the adequacy of APVMA's explanation of the evidence basis for registered pool and spa sanitiser products;

APVMA's treatment of legacy registered products;

APVMA's handling of Enviroswim's 5 June 2026 FOI request;

APVMA's redirection of the request into the Agvet Code pathway;

whether APVMA properly distinguished product-specific confidential material from public regulatory reasoning;

whether APVMA provided procedural clarity, reasons and review rights;

APVMA's decision not to proceed with the 2022 proposed amendments;

whether APVMA considered Enviroswim's material as potential reconsideration or review information;

whether APVMA has provided adequate reasons for its position;

whether APVMA's handling reflects a broader systemic issue in how legacy chemical products are administered when later efficacy expectations are developed.

15.11 Primary findings requested

Enviroswim asks the Ombudsman to consider whether the following findings are open after investigation:

APVMA has not provided a sufficiently clear consolidated answer to Enviroswim's central evidence question.

APVMA has relied heavily on process explanations without adequately identifying the evidentiary basis for regulatory confidence in legacy pool and spa sanitiser products.

APVMA has not clearly distinguished between registration status and contemporary efficacy evidence.

APVMA has not adequately explained the continuing significance of the 2014 FOI decision.

APVMA has not adequately explained why the 2022 proposed amendments did not proceed.

APVMA has not adequately explained whether Enviroswim's material was assessed as possible reconsideration information.

APVMA's handling of the 2026 FOI / Agvet Code issue may not have provided practical access to the evidence question being asked.

APVMA should provide a non-confidential evidence-category statement for major pool and spa sanitiser classes.

These findings should be made only to the extent the Ombudsman considers them supported after investigation.

15.12 Primary recommendations requested

Enviroswim asks the Ombudsman to consider recommending that APVMA:

provide a consolidated written statement answering the central evidence question;

identify the evidence categories APVMA relies upon for major registered pool and spa sanitiser classes;

distinguish between products assessed under current guidance and products registered under earlier arrangements;

explain how legacy products are treated and what evidence supports continuing confidence in them;

clarify the 2014 FOI decision and whether the evidentiary position has changed since that time;

review its handling of the 2026 FOI / Agvet Code access process;

provide records and reasons explaining why the 2022 proposed amendments did not proceed;

explain what information would be sufficient to trigger reconsideration or review of existing registered pool and spa sanitiser products;

state whether Enviroswim's material has been assessed against that threshold;

publish technology-neutral guidance explaining the difference between APVMA registration status and contemporary efficacy evidence;

consider an independent expert review of the evidentiary baseline for pool and spa sanitiser products.

15.13 Why the requested recommendations are practical

The recommendations sought are practical and proportionate.

They do not require APVMA to disclose protected commercial information unlawfully.

They do not require APVMA to deregister products.

They do not require APVMA to approve or endorse Enviroswim.

They do not require the Ombudsman to make technical findings on microbiology or pool chemistry.

They require APVMA to do what a regulator should be able to do:

identify the evidence it holds;

explain the evidence it relies upon;

clarify the status of legacy products;

provide adequate reasons;

explain access pathways;

maintain and disclose appropriate public regulatory reasoning;

support confidence in the regulatory system.

15.14 The public-interest basis for investigation

The public-interest basis for investigation is strong.

Pool and spa sanitiser products are used in public and private aquatic environments across Australia. Consumers, pool operators, public facilities, swimming instructors, aquatic workers, regulators and industry participants all rely on confidence in the regulatory system.

The issue is not academic.

If registered products are supported by current evidence, APVMA should be able to identify that evidence or explain its nature.

If products are supported by historical evidence, APVMA should explain that.

If products are supported by literature, external standards, state health guidance, OECD guidance or manufacturer data, APVMA should explain that.

If products remain registered because no reconsideration trigger has been accepted, APVMA should explain that plainly.

The public should not have to infer these matters from procedural correspondence.

15.15 Why this matter also affects regulatory fairness

This matter also affects regulatory fairness.

Enviroswim and other alternative technologies should be required to support their claims with evidence. That is proper.

But if incumbent legacy products are treated as accepted benchmarks without APVMA clearly identifying equivalent evidence, the regulatory environment may become unfair in practice.

The complaint does not ask for lower standards for innovation. It asks for clear standards for everyone.

Australian innovation should compete against evidence, not assumptions.

15.16 The outcome Enviroswim seeks

The outcome Enviroswim seeks is not preferential treatment.

The outcome sought is clarity.

Specifically, Enviroswim seeks:

clarity about the evidence supporting registered pool and spa sanitiser products;

clarity about legacy products;

clarity about whether current efficacy guidance applies to older products;

clarity about the 2014 FOI decision;

clarity about the 2022 proposed amendments;

clarity about the 2026 FOI / Agvet Code process;

clarity about reconsideration triggers;

clarity about how APVMA treats alternative technologies compared with incumbent products.

That clarity would benefit not only Enviroswim, but consumers, pool operators, regulators and the broader aquatic industry.

15.17 Proposed closing request

Enviroswim respectfully requests that the Commonwealth Ombudsman accept this complaint for investigation and seek from APVMA the documents, explanations and reasons necessary to resolve the matters identified in this report.

In particular, Enviroswim asks the Ombudsman to require APVMA to explain whether its continued regulatory confidence in registered pool and spa sanitiser products is based on:

current APVMA assessment;

historical APVMA assessment;

product-specific efficacy data;

class-level scientific literature;

OECD guidance;
Australian Standards;
state or territory health guidance;
overseas data;
manufacturer declarations;
historical use;
prior registration;
absence of a reconsideration trigger;
another basis.

That explanation should be provided in a form that is meaningful, non-confidential where required, and capable of being understood by affected stakeholders.

15.18 Final statement

This complaint has been prepared because Enviroswim has raised substantially the same evidence issue with APVMA over many years and, following the further exchange of 9 July 2026, remains without a clear and verifiable answer identifying the underlying product-specific evidence and APVMA assessment conclusions.

The issue is not whether APVMA has a process. APVMA clearly has processes.

The issue is whether those processes have produced a fair, transparent and adequately reasoned answer to the central question.

That question remains:

What evidence supports APVMA's continued regulatory confidence in registered swimming pool and spa sanitiser products, particularly legacy products, and how does that evidence compare with the requirements applied to new and alternative technologies?

Until that question is answered, the public-interest concern remains unresolved.

15.19 Chapter conclusion

For the reasons set out in this report, Enviroswim respectfully asks the Commonwealth Ombudsman to investigate APVMA's handling of Enviroswim's long-running concerns.

The complaint is serious, evidence-based and restrained. It does not ask the Ombudsman to take sides in a commercial dispute. It asks the Ombudsman to examine whether a Commonwealth regulator has properly answered a repeated public-interest evidence question.

The central proposition is:

Regulatory confidence must be capable of explanation. Registration status alone is not an adequate substitute for identifiable evidence, adequate reasons and transparent administration.

Enviroswim therefore formally requests Ombudsman investigation and appropriate recommendations to APVMA.

Submission Control Statement

This complaint is prepared as a formal submission to the Commonwealth Ombudsman. It should be read together with the appendices and evidence index identified in Chapter 14.

Enviroswim does not ask the Ombudsman to treat every supporting document as conclusive proof of every matter asserted. The complaint distinguishes between primary documents, supporting material, reasonable inferences and matters requiring APVMA explanation or Ombudsman investigation.

Enviroswim reserves the right to provide further supporting material, including appendices, technical records, impact evidence and correspondence, if requested by the Ombudsman.

Signed for submission

[Redacted signature]

For Watertech Services International Pty Ltd / Enviroswim

Date: 10 July 2026