



Berries Australia

# Proposal to amend the Raspberry and Blackberry levy.

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# Proposal to update the Raspberry and Blackberry levy

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# Berries Australia – Proposal to amend the Raspberry and Blackberry levy

## Overview

In June 2022 the raspberry and blackberry (rubus) industry voted to amend their statutory levy from 10c/kg for Research and Development (R&D) and 2c/kg for marketing to 2c/kg for R&D, 2c/kg Plant Health Australia (PHA) levy and 0c/kg for marketing. This will mean the **total levy paid by growers is proposed to be 4c/kg instead of 12c/kg.**

All rubus levy payers were given the opportunity to vote for the levy amendment and the proposal received overwhelming support. **Ninety-two percent of respondents voted yes** to the proposal to reduce the R&D levy from 10c to 2c/kg, **Seventy-eight percent of respondents voted yes** to the proposal to reduce the marketing levy from 2c/kg to 0c/kg and **Eighty-six percent of respondents voted yes** to the proposal to raise a PHA levy of 2c/kg.

The voting process and consultation was managed by Berries Australia. Berries Australia is a joint venture between the Australian Blueberry Growers' Association Inc. (ABGA), Raspberries and Blackberries Australia Inc. (RABA) and Strawberries Australia Inc. (SAI) established to represent the interests of the Australian berry industry as a whole.

RABA is the prescribed industry body for the raspberry and blackberry industry and the membership represents more than eighty-percent of production. All decisions relating to the levy were made by the RABA committee with Berries Australia providing secretariat and administrative support. The RABA committee comprises grower members who are voted in on an annual basis.

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## About the rubus industry

The rubus industry encompasses raspberries, blackberries and hybrid brambles—for example, silvanberries, boysenberries, loganberries, youngberries and marionberries. There are approximately 65 growers producing raspberry and blackberry crops across all states except the Northern Territory, with negligible amounts in Western Australia. The majority of rubus berries are grown in Tasmania and Northern NSW but in more recent years there have been increased plantings in Queensland and Western Australia. Traditionally rubus were grown mostly in Victoria but the industry there has contracted significantly in recent years.

The rubus<sup>1</sup> levy and charge was first introduced 1 July 2006 and set at 12 cents per kilogram, which represents an R&D levy of 10 cents per kilogram and a marketing levy of 2 cents per kilogram. Levy is payable on raspberries, blackberries and hybrid brambles that are produced in Australia and either sold by the producer or used by the producer in the production of other goods.

According to the regulatory impact statement developed to make the case for the implementation of the levy in the 2003-04 season, the estimated Australian production of Rubus fruit was approximately 800 tonnes, with a gross value of production of around \$10 million. In 2019/20, total raspberry and blackberry production was

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<sup>1</sup> Rubus in this context does not mean strawberries, blueberries or ribes—for example, red currants, black currants, white currants and gooseberries.

9932 tonnes with levy receipts of approximately \$1,031,984: \$859,893 of R&D levies and \$172,091 in marketing levy

The rubus industry has seen remarkable growth over the last few years with a 458% increase in volume 306% increase in value between 2012/13 and 2020/21. Australian raspberry and blackberry (species of the rubus genus) production is dominated by raspberries, which accounted for 75 per cent of fresh production for the year ending June 2021<sup>2</sup>. Blackberries accounted for close to 25 per cent of fresh production, with other rubus varieties such as silvanberries, boysenberries and loganberries equating to less than one per cent of production. Many rubus growers produce both raspberries and blackberries.

The industry has also changed in other important ways namely that most of the varieties now grown in Australia use proprietary genetics and the size of individual farms has grown significantly. In real terms the industry has moved from being primarily made up of many small individual growers to a sector dominated by a few large enterprises and marketing companies. The genetics now available have also significantly increased the geographic footprint of the sector.

At the time the levy was introduced, more than 70% of rubus growers grew less than half a hectare of fruit and were not large enough to undertake their own marketing and R&D activities nor to create the economies of scale to do these activities through some form of grower co-operative effort.

As outlined above the industry has changed dramatically since then. It has seen a 12 fold increase in tonnage and 21 fold increase in value. Market penetration for raspberries has doubled to 41% and blackberries also now have 29% market penetration<sup>3</sup>.

### Case for change

Whilst the success of the industry cannot be solely attributed to the levy, it certainly has played some part and that is something to be celebrated. It is also fair to say that all of the original objectives of the levy have been met. That said, the levy as currently stands is no longer fit for purpose and the funds are accruing at a rate that cannot be meaningfully spent.

In the 2019/20 financial year, the closing balance of the rubus research and development fund within Hort Innovation was more than \$2.5 million but only \$470,000<sup>4</sup> was spent in project delivery and more than \$100,000 spent on service delivery fees from Hort Innovation. As the matched funds from the Australian government are only provided on project investment, the rubus industry only received less than a third of the funds they contributed in matched funding from the Australian government. At its current settings the R&D levy is no longer fit for purpose. As of the 2020/21 financial year there was more than \$3 million of unmatched funds in the rubus fund which effectively means there is \$6 million available for investment in R&D.

Similarly the marketing levy has delivered little value to the industry. In 2019 \$172,091 was collected in marketing levies and \$0 was spent on marketing activity. Whilst the spend has increased over recent years it demonstrates that the phenomenal growth in the rubus category is not attributable to the marketing program and the sector has been underserved in this regard by Hort Innovation. Additionally as most rubus production is marketed by a third party due to closed loop marketing systems based on proprietary genetics, the value of the marketing levy to levy payers is questionable.

In relation to the PHA levy, RABA is a party to the EPPRD. The deed provides for the Australian Government to underwrite industry contributions (when requested), which are then repaid within ten years, usually through a statutory levy. The deed requires industry parties to identify a funding mechanism for repaying the government. The PHA levy will serve this purpose. The government has already underwritten rubus industry

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<sup>3</sup> Harvest to Home <https://www.harvesttohome.net.au/fruitmushroomnuts/latest-highlights/blackberries>

<sup>4</sup> [hort-innovation-annual-report-2019-20-raspberry-blackberry-fund.pdf \(horticulture.com.au\)](https://www.horticulture.com.au/hort-innovation-annual-report-2019-20-raspberry-blackberry-fund.pdf)

contributions for eradication responses to brown marmorated stink bug and varroa jacobsoni. The industry has also agreed to be part of the current Varroa Destructor response which will increase the industry's liability. Introducing a PHA levy will allow the industry to commence repayment to the Australian government and meet their future biosecurity commitments.

Taking all of this into account, the RABA committee made the decision May 2021 to initiate a process to review the R&D levy, raise a PHA levy and review the marketing levy. The review process was undertaken by Berries Australia with assistance from PHA to establish what the new rates should be based on forecasting future levy income and the current fund balances. The figures used in the forecast were based on historical production volumes with input from the marketing companies about future trends. The forecast was based on an assumption that production would only increase by 1500 tonnes over a ten year period. Considering that production increased by almost 800 tonnes between 2019/20 and 2021/22<sup>5</sup> this is a very conservative and financially prudent forecast. Using these conservative tonnage numbers and assuming an increased R&D investment, after 10 years there will still be more than \$1.5million of unmatched funds in the rubus fund. The RABA committee considers that setting the levy at 2c/kg will put more dollars in growers' pockets whilst still enabling industry to invest in R&D. Hort Innovation supports the proposal to reduce the R&D levy to ensure that the amount collected is more aligned with R&D expenditure.

The committee agreed in October 2021 that the proposal to industry should be a reduction in the R&D levy to 2c/kg, introduction of a PHA levy of 2c/kg and reducing the marketing levy from 2c/kg to nil. All growers were notified of the intent to change the levy in articles in the Berry Journal as well as through direct communication with levy collection agents. All growers were provided with the option to give feedback on the proposed changes and no feedback was received.

The ballot, managed by independent online voting company GoVote, commenced on 16 May 2022 and closed on 03 June 2022.

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<sup>5</sup> <https://www.horticulture.com.au/globalassets/hort-innovation/levy-fund-financial-and-management-documents/fund-annual-report-pdfs-202122/hort-innovation-far-berry-2021-22.pdf>

## Levy Ballot Result Summary

**Ninety-two percent of respondents voted yes** to the proposal to reduce the R&D levy from 10c to 2c/kg.

**Seventy-eight percent of respondents voted yes** to the proposal to reduce the marketing levy from 2c/kg to 0c/kg.

**Eighty-six percent of respondents voted yes** to the proposal to raise a PHA levy of 2c/kg.

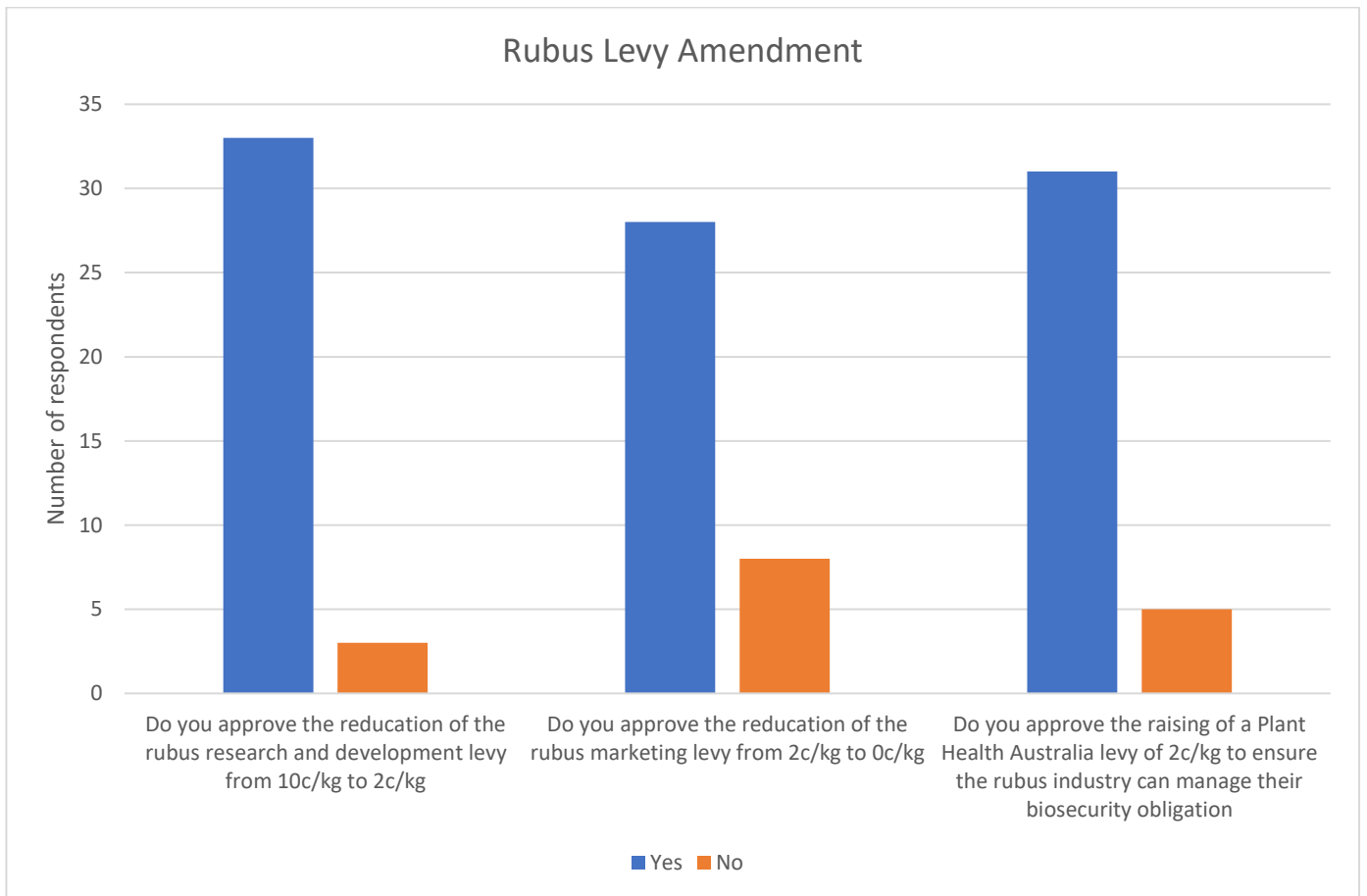


Figure 1 - Ballot results

## Response to Levy Principles

1. The proposed levy must relate to a function for which there is a market failure.

### Market

Market failure for the R&D and marketing levies was established during the initial introduction of the levy. The introduction of the PHA levy addresses market failure in the biosecurity space. The levy will be used to fund the industries' obligations under the Emergency Plant Pest Response Deed. Were the industry's contribution funded by individual growers, the benefits of eradication responses to exotic plant pests under that deed could not be contained to only those who contributed. A statutory PHA levy overcomes this free-rider issue.

2. A request for a levy must be supported by industry bodies representing, wherever possible, all existing and/or potential levy payers, the relevant levy beneficiaries and other interested parties.

*The initiator shall demonstrate that all reasonable attempts have been made to inform all relevant parties of the proposal and that they have had the opportunity to comment on the proposed levy.*

Growers and marketers of raspberries and blackberries (known as Rubus) are represented by the organisation Raspberries and Blackberries Australia Inc. (RABA). Raspberries & Blackberries Australia was incorporated in 1999 as a not-for-profit association to work on behalf of growers in the industry.

RABA prepared the original application to introduce the compulsory levy in 2006 and this has helped to fund the research and development activities needed to help the industry to grow significantly. In 2018, RABA joined forces with other berry industry associations to form Berries Australia Limited. This proposal was developed by the committee members of RABA with support from the Berries Australia team. It is estimated that around 50% of current active growers are members of RABA and the organisation represents around 90% of production as there are a small number of large growers.

Berries Australia made significant efforts to identify and notify actual and potential rubus levy payers over a six month period leading up to the ballot to ensure that all levy payers were aware of the proposal and had the opportunity to vote, using the following mechanisms:

- An article in the Spring 2021 edition of the Australian Berry Journal (hard copy distributed to members and non-members as well as an online copy on the Berries Australia website) outlining the intention to review the levy (attachment 1).
- A fact sheet (attachment 2) distributed to all rubus growers on the RABA database and sent to rubus levy collection agents requesting that they pass on to their suppliers in December 2021 (attachment 3). This fact sheet also encouraged any non-RABA members to register their details with us to enable them to be added to the voter roll.
- An article in the 2021 Summer Edition of the Australian Berry Journal outlining the specific proposal and encouraging growers to register their details for voting purposes. In addition, the RABA Chair also made a request to all rubus growers to vote in his column published in the same edition.
- A webinar for all rubus growers held on the 17<sup>th</sup> of January to discuss the detail of the proposal with a follow up webinar on the 4<sup>th</sup> of February. An email notifying all known rubus growers of the webinar details was sent directly to them

- A follow up email to all known rubus growers<sup>6</sup> (104 contacts of which 34 are current RABA members) on the Berries Australia database (RABA members and non-members) on the 26<sup>th</sup> of April 2022 notifying them of the poll opening date and requesting that they confirm their details or let Berries Australia know if they no longer paid the rubus levy.
- Fifty-seven levy payers confirmed their status as levy payers and contact details. A further five were confirmed when they voted, which provided a total pool of 62 potential voters. Of these, 36 chose to participate in the online vote with one grower following up subsequently and voting yes to all.
- A follow up email to rubus levy collection agents on the 28<sup>th</sup> of April to request that they notify their suppliers of the upcoming poll and to confirm their details with Berries Australia (attachment 4)
- Once the ballot was open, all 104 previously identified growers (confirmed or not) were sent the ballot link via email and where possible SMS. Non-voters were reminded up to four additional times about the ballot and provided with the link.

3. The initiator of a levy proposal shall provide an assessment of the extent, the nature and source of any opposition to the levy, and shall provide an analysis of the opposing argument and reasons why the levy should be imposed despite the argument raised against the levy.

As outlined above, levy payers were given multiple opportunities to engage with the process and provide feedback. There was no feedback given at any point in objection to the proposed amendments and Berries Australia was clear about the process. As required, a six-week objection period will be held after this proposal is submitted to the minister and a summary report of any objections received will be provided.

4. The initiator is responsible to provide, as follows: **a.** an estimate of the amount of levy to be raised to fulfil its proposed function; **b.** a clear plan of how the levy will be utilised, including an assessment of how the plan will benefit the levy payers in an equitable manner; **c.** demonstrated acceptance of the plan by levy payers in a manner consistent with levy principle 2

As previously noted, the introduction of the PHA levy addresses market failure in the biosecurity space. The levy will be used to fund the industries' obligations under the Emergency Plant Pest Response Deed. Were the industry's contribution funded by individual growers, the benefits of eradication responses to exotic plant pests under that deed could not be contained to only those who contributed. A statutory PHA levy overcomes this free-rider issue. The levy will be spent within the constraints of the EPPRD and enables the rubus industry to repay the Australian government, participate fully as members of PHA and meet future obligations under the Deed.

a) It is estimated that the PHA levy will raise an additional \$200,000 per year which enable the industry to meet their commitments to the Australian government now and in an ongoing way and invest additional funds in biosecurity related activities.

The R&D levy has been in place since 2006. Berries Australia and RABA will continue to work with Hort Innovation to ensure that all growers (members and non-members) have the opportunity to identify R&D priorities and benefit from future R&D investments. The RABA committee reviewed multiple options based on conservative tonnage forecasts and the final proposal was considered to strike the balance between ensuring that there were sufficient funds to continue to fund R&D whilst at the same time stop accumulating funds that could not be meaningfully spent.

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<sup>6</sup> To ensure that Berries Australia captured as many levy payers as possible we emailed the levy collection agents and requested that they send information onto their growers and encourage them to confirm their contact details and grower status. We also utilized information from the major marketing companies regarding their 3<sup>rd</sup> party growers.



b) The PHA levy will ensure that responsibility for funding the rubus industries obligations under the EPPRD in an equitable manner. There is no proposed change to how R&D funds will be allocated and expended

The RABA committee considers that setting the levy at 2c/kg will put more dollars in growers' pockets whilst still enabling industry to invest in R&D which is a more equitable approach. Hort Innovation supported the proposal to reduce the R&D levy to ensure that the amount collected is more aligned with R&D expenditure. (see attachment 5)

c) All confirmed and potential rubus growers were emailed and where possible sent an SMS with the link to the voting portal. GoVote managed the voting process to ensure that it was professionally managed and anonymous. GoVote have managed voting procedures for many Australian government departments and regularly conduct votes on industrial relations matters. A comprehensive (deidentified) data set has been shared with Berries Australia and can be provided if required. The vote was initially open for two weeks and extended by another week to give maximum opportunity to vote. Multiple reminders were sent out and the GoVote data indicates that all emails were opened apart from four that bounced back. One grower contacted Berries Australia after voting closed and voted yes to all the options – these results have not been included in the official tally. It should also be noted that whilst not all growers voted, all major growers have confirmed verbally that they voted, meaning the vote has captured at least 85 per cent of rubus production in Australia.

5. The initiator must be able to demonstrate that there is agreement by a majority on the levy imposition/collection mechanism or that, despite objections, the proposed mechanism is equitable under the circumstances.

There is no intention to change the levy collection mechanism which has operated effectively for more than 15 years. At no point were concerns raised regarding the levy collection mechanism.

6. The levy imposition must be equitable between levy payers.

The levy is collected equitably on outputs. No concerns were raised about the equity of the current mechanism during the consultation phase.

7. The imposition of the levy must be related to the inputs, outputs or units of value of production of the industry or some other equitable arrangements linked to the function causing the market failure.

The levy will continue to be collected on output, per kilogram sold by the grower and collected at the first point of sale.

8. The levy collection system must be efficient and practical. It must impose the lowest possible 'red tape' impact on business and must satisfy transparency and accountability requirements.

No change to the existing collection system. No concerns raised during consultation period.

9. Unless new structures are proposed, the organisation/s that will manage expenditure of levy monies must be consulted prior to introduction of the levy.

Horticulture Innovation has been consulted both formally and informally regarding this process. A letter supporting the proposed amendments was sent from the CEO of Hort Innovation to the Executive Director of Berries Australia on the 24<sup>th</sup> of May 2022 and is provided at Attachment 4. Plant Health Australia has supported Berries Australia throughout the process and has been heavily engaged in determining the appropriate levy rate. A letter of support from PHA CEO Sarah Corcoran is provided at Attachment 5.

10. The body managing expenditure of levy monies must be accountable to levy payers and to the Commonwealth.

Horticulture Innovation is bound by the Statutory Funding Agreement to demonstrate their accountability to levy payers and the Commonwealth. The current review processes being explored by HIA will increase their

accountability back to levy payers. The Commonwealth is a member of Plant Health Australia and provides oversight on its annual operational plan along with other members. PHA is also bound by its Constitution to consult with RABA on the spending of PHA levies on rubus.

11. After a specified time period, levies must be reviewed against these principles in the manner determined by the government and the industry when the levy was first imposed.

Berries Australia will undertake a review on the advice of government or at the instigation of levy payers.

Amendments to existing levies

12. The proposed change must be supported by industry bodies or by levy payers or by the government in the public interest. The initiator of the change must establish the case for change and where an increase is involved, must estimate the additional amount which would be raised. The initiator must indicate how the increase would be spent and must demonstrate the benefit of this expenditure for levy payers.

The case for change has been outlined above.