

The Senate

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Rural and Regional Affairs and  
Transport Legislation Committee

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Agriculture (Biosecurity Protection) Levies  
Bill 2024 [Provisions] and related bills

May 2024

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Thea Armstrong, Administrative Officer

Sarah Cavill, Administrative Officer

Jamison Eddington, Administrative Officer

Will Peden, Administrative Officer

PO Box 6100  
Parliament House  
Canberra, ACT 2600

(02) 6277 3511  
[rrat.sen@aph.gov.au](mailto:rrat.sen@aph.gov.au)  
[www.aph.gov.au/sentate\\_rrat](http://www.aph.gov.au/sentate_rrat)



# Chapter 1

## Introduction

1.1 On 21 March 2024, the Senate referred the provisions of the Agriculture (Biosecurity Protection) Levies Bill 2024 and the Agriculture (Biosecurity Protection) Charges Bill 2024 (Imposition bills), as well as the Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024 (Collection bill) to the Rural and Regional Affairs and Transport Legislation Committee (the committee) for inquiry and report by 10 May 2024.<sup>1</sup>

### Structure of the report

1.2 This report comprises two chapters. This chapter provides background information, outlines the key elements of the bills, and looks at their consideration by other parliamentary committees. Chapter 2 examines the key issues raised by submitters and sets out the committee view and recommendation.

### Background

1.3 Under the existing agricultural levy system, several types of levies and charges are imposed to facilitate investment in research and development, marketing and biosecurity responses, as well as residue testing. These investments are managed by the 15 research and development corporations, Plant Health Australia, Animal Health Australia, and the National Residue Survey which sits in the Department of Agriculture, Fisheries and Forestry (the department).<sup>2</sup>

1.4 In July 2017, the final report of the Independent Review of the Intergovernmental Agreement on Biosecurity (Craik Review) made 42 recommendations for strengthening Australia's national biosecurity system. This included the proposed introduction of a container levy, increasing the passenger movement charge, and more widespread implementation by states and territories of land-based levies. The Craik Review noted that an alternative to the introduction of a container levy would be to supplement the charge on Full Import Declarations with a levy to collect a similar amount to the proposed container charge.<sup>3</sup>

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<sup>1</sup> *Journals of the Senate*, No. 105, 21 March 2024, pp. 3160–3161.

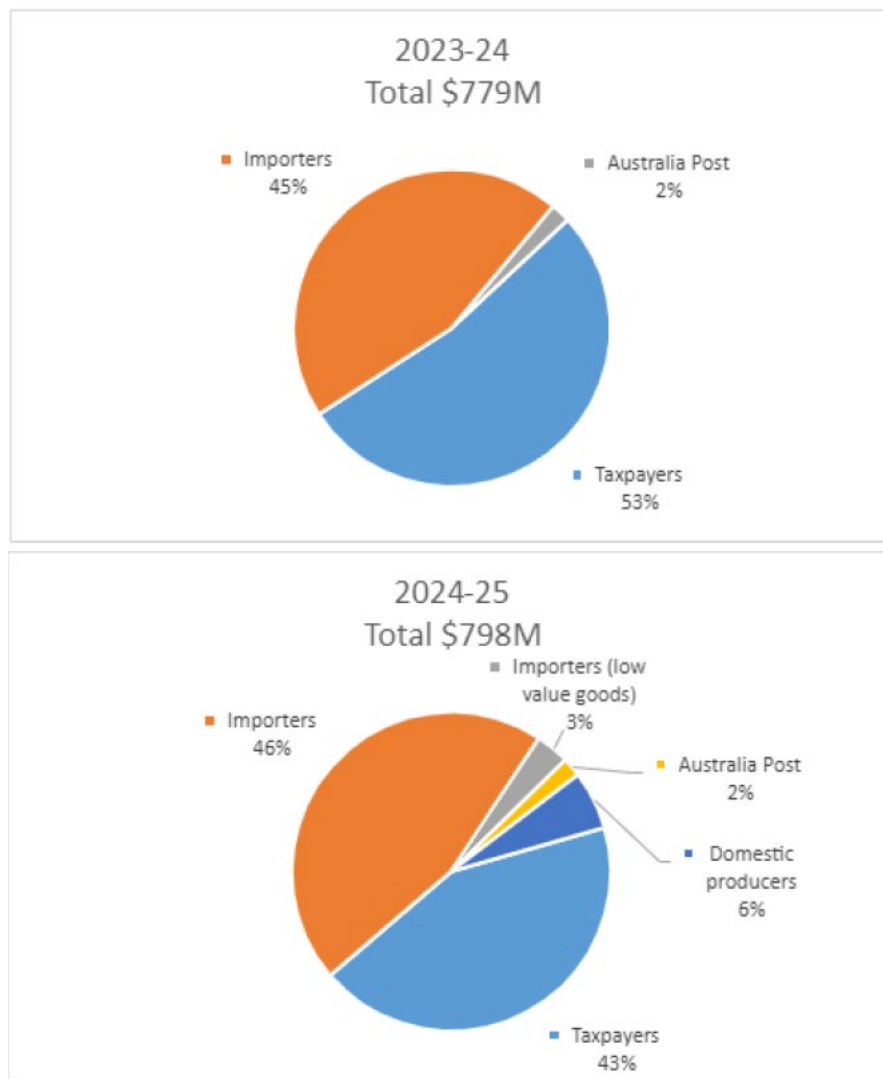
<sup>2</sup> Australian Government, Department of Agriculture, Fisheries and Forestry, [Introduction of the Biosecurity Protection Levy: consultation paper](#) (accessed 4 April 2024).

<sup>3</sup> Craik, W, Palmer, D & Sheldrake, R 2017, [Priorities for Australia's biosecurity system, An independent review of the capacity of the national biosecurity system and its underpinning Intergovernmental Agreement](#), Canberra, p. 121 (accessed 4 April 2024).

## The biosecurity protection levy

1.5 In the 2023–24 Budget, the Australian Government (the government) announced the biosecurity levy and charge (the BPL) as one of the funding sources for its election commitment to strengthen Australia's biosecurity system through a new sustainable funding model.<sup>4</sup> Under the new model, funding of the biosecurity system would be more broadly based and 'shared across general taxpayers, importers, and Australia Post, as well as a modest contribution from domestic producers via the proposed new BPL' (Figure 1.1).<sup>5</sup>

**Figure 1.1 Sustainable Biosecurity Funding package: 2024–25**



Under the Sustainable Biosecurity Funding package, in 2024–25 importers including those of low value goods, will contribute 49 per cent of the Commonwealth's biosecurity funding. Source: Department of Agriculture, Fisheries and Forestry, *Submission 34*, p. 3.

<sup>4</sup> Australian Government, Budget 2023–34, *Budget Measures: Budget Paper No. 2: 2023–24*, p. 57.

<sup>5</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 3. See also, Senator the Hon Anthony Chisholm, Assistant Minister for Education, Assistant Minister for Regional Development, *Proof Senate Hansard*, 27 March 2024, pp. 129–131.



- 1.6 The fact sheet on the department's website titled *Sustainable funding for a strong biosecurity system* shows that operating base funding for biosecurity was projected to decline by close to \$100 million over the forward estimates—from \$597 million in 2022–23 to \$491.6 million in 2025–26.<sup>6</sup> However, the introduction of the sustainable biosecurity funding model will permanently increase biosecurity funding to around \$805 million per year from 2024–25.<sup>7</sup>
- 1.7 According to the department, the proposed BPL would 'help meet the cost of sustainably funding the Commonwealth biosecurity system through a new levy and charge generally payable by producers of agricultural, forestry and fisheries goods and products, whether produced for domestic or overseas markets'.<sup>8</sup>
- 1.8 It is estimated the BPL would collect around \$50 million per year—equivalent to six per cent of the Commonwealth biosecurity funding in 2024–25—and around 10 per cent of total industry agricultural levy contributions.<sup>9</sup> The Imposition bills' Explanatory Memorandum (EM) noted that the levy would 'supplement much larger contributions from taxpayers and importers, that between them will contribute more than nine out of every ten dollars needed to fund our biosecurity system'.<sup>10</sup>

### Consultation process

- 1.9 Between August and October 2023, the department undertook a public consultation process on the proposed new levy, including meetings with industry representative bodies and stakeholders.<sup>11</sup> In its submission, the department highlighted the steps it took following this process:

As a result of this consultation, the BPL will no longer be set by reference to 2020–21 agricultural levy rates (as originally announced in Budget 2023–24). Instead, rates will be calculated based on each industry's proportionate share of the total gross value of production (GVP) for the agriculture, fisheries and forestry sector. The government has also responded to concerns about multiple imposition points across some product's supply

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<sup>6</sup> Australian Government, Department of Agriculture, Fisheries and Forestry, Budget 2023–24, [Sustainable funding for a strong biosecurity system](#), p. 2 (accessed 7 May 2024).

<sup>7</sup> Australian Government, Department of Agriculture, Fisheries and Forestry, Budget 2023–24, [Sustainable funding for a strong biosecurity system](#), p. 3 (accessed 7 May 2024).

<sup>8</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 4.

<sup>9</sup> Agriculture (Biosecurity Protection) Levies Bill 2024 and the Agriculture (Biosecurity Protection) Charges Bill 2024, Explanatory Memorandum, p. 1.

<sup>10</sup> Agriculture (Biosecurity Protection) Levies Bill 2024 and the Agriculture (Biosecurity Protection) Charges Bill 2024, Explanatory Memorandum, p. 1.

<sup>11</sup> Australian Government, Department of Agriculture, Fisheries and Forestry, [Biosecurity Protection Levy, Summary of consultation outcomes](#), February 2024 (accessed 5 April 2024). See also, Department of Agriculture, Fisheries and Forestry, answer to question on notice from Senator Ciccone, 23 April 2024 (received 2 May 2024).

chain. The BPL is intended to be tailored to individual products and goods to remove multiple imposition points across a product's supply chain, subject to further consultation with relevant industries which is currently underway.<sup>12</sup>

1.10 In February 2024, the Minister for Agriculture, Fisheries and Forestry announced a new Sustainable Biosecurity Funding Advisory Panel (Panel) to provide transparency of biosecurity expenditure and give biosecurity stakeholders input into biosecurity priorities, including the implementation of the proposed BPL.<sup>13</sup>

### **Purpose and overview of the bills**

1.11 The package of three bills would establish a new legislative framework for the imposition of the BPL, which would be payable by certain producers of agricultural, forestry and fisheries products within Australia. The following section provides a summary of the key elements of the bills.

### **Imposition bills**

1.12 The Imposition bills would impose a new levy or charge—or enable the imposition of such a levy or charge—on certain producers of agricultural, forestry and fisheries products in Australia. The bills would enable the imposition of the BPL in relation to:

- animal products, plant products, fungus products or algal products that are produce of a primary industry; or
- goods that are for use in the production or preparation of nursery products for sale or for use in the commercial production of other goods.<sup>14</sup>

1.13 The Imposition bills would also:

- provide for the rate of BPL to be specified or worked out in accordance with regulations to ensure that the rate can be set, and where appropriate, be changed to account for existing circumstances;
- enable the specification of the relevant levy or charge payer for the PBL; and
- set out other matters relating to how the imposition provisions apply.<sup>15</sup>

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<sup>12</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 5.

<sup>13</sup> Senator the Hon Murray Watt, Minister for Agriculture, Fisheries and Forestry, 'New Sustainable Biosecurity Funding Advisory Panel locks in transparency', *Media Release*, 28 February 2024.

<sup>14</sup> Agriculture (Biosecurity Protection) Levies Bill 2024 and the Agriculture (Biosecurity Protection) Charges Bill 2024, Explanatory Memorandum, p. 5.

<sup>15</sup> Agriculture (Biosecurity Protection) Levies Bill 2024 and the Agriculture (Biosecurity Protection) Charges Bill 2024, Explanatory Memorandum, pp. 4–31.

## Collection bill

1.14 The Collection bill would provide for the collection of levies and charges imposed by, or under, the Imposition bills—including the collection of equivalent amounts from collection agents. The Collection bill would also:

- trigger the *Regulatory Powers (Standard Provisions) Act 2014* to allow certain enforcement actions, including:
  - monitoring and investigation powers; and
  - the issuing of infringement notices as part of a flexible compliance approach that reserves criminal penalties for serious offences; and
- provide for the appropriate use and disclosure of information, while ensuring effective safeguards for sensitive information.<sup>16</sup>

1.15 According to the department, in order to 'streamline collection and administrative arrangements with Primary Industries Legislation arrangements, the BPL would be aligned with the proposed *Primary Industries Levies and Charges Collection Act 2024*, where possible'.<sup>17</sup>

## Financial implications

1.16 According to the Imposition bills' EM, the new BPL would 'increase receipts by \$153 million over the three years from 2024–25'.<sup>18</sup> The Collection bill's EM noted that the 'costs associated with the establishment, collection and administration of the BPL would be funded by appropriation as outlined in the 2023–24 Budget papers with \$0.8 million in administration costs per year'.<sup>19</sup>

## Consideration by other parliamentary committees

1.17 When examining a bill or draft bill, the committee considers any relevant comments published by the Senate Standing Committee for the Scrutiny of Bills (Scrutiny Committee) and the Parliamentary Joint Committee on Human Rights (Human Rights Committee).

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<sup>16</sup> Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024, Explanatory Memorandum, p. 1.

<sup>17</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 6.

<sup>18</sup> Agriculture (Biosecurity Protection) Levies Bill 2024 and the Agriculture (Biosecurity Protection) Charges Bill 2024, Explanatory Memorandum, p. 2.

<sup>19</sup> Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024, Explanatory Memorandum, p. 2.

**Scrutiny Committee consideration**

- 1.18 In its *Scrutiny Digest 4 of 2024*, the Scrutiny Committee raised concerns that the Imposition bills seek to provide that the rate of the BPL may be set through the making of delegated legislation.<sup>20</sup>
- 1.19 Concerns were also expressed about the Collection bill regarding the broad delegation of administrative powers, coercive powers, infringement notices, the reversal of the evidential burden of proof, automated decision making, and the incorporation of external materials from time to time.<sup>21</sup>
- 1.20 The Scrutiny Committee drew to the attention of senators and leaves to the Senate the appropriateness of allowing rates of charges and levies in the Imposition bills to be specified in, or worked out, in accordance with the regulations.<sup>22</sup> It also drew attention to the provision for a broad delegation of administrative power without a requirement that compliance officers exercising such power have appropriate skills, experience, or training on the face of the bill, noting the coercive nature of the powers that may be exercised.<sup>23</sup>
- 1.21 The Minister's advice was sought as to whether material incorporated from time to time would be made freely available to all persons interested in the law, including individuals not in the industries concerned.<sup>24</sup> In addition, advice was requested concerning the issues raised in relation to the reversal of the burden of proof and automated decision making.<sup>25</sup>

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<sup>20</sup> Senate Standing Committee for the Scrutiny of Bills, Agriculture (Biosecurity Protection) Charges Bill 2024 and Agriculture (Biosecurity Protection) Levies Bill 2024, *Scrutiny Digest 4 of 2024*; [2024] AUSStaCSBSD 51, pp. 2–3.

<sup>21</sup> Senate Standing Committee for the Scrutiny of Bills, Agriculture (Biosecurity Protection) Charges Bill 2024 and Agriculture (Biosecurity Protection) Levies Bill 2024, *Scrutiny Digest 4 of 2024*; [2024] AUSStaCSBSD 51, pp. 5–15.

<sup>22</sup> Senate Standing Committee for the Scrutiny of Bills, Agriculture (Biosecurity Protection) Charges Bill 2024 and Agriculture (Biosecurity Protection) Levies Bill 2024, *Scrutiny Digest 4 of 2024*; [2024] AUSStaCSBSD 51, p. 3.

<sup>23</sup> Senate Standing Committee for the Scrutiny of Bills, Agriculture (Biosecurity Protection) Charges Bill 2024 and Agriculture (Biosecurity Protection) Levies Bill 2024, *Scrutiny Digest 4 of 2024*; [2024] AUSStaCSBSD 51, p. 8.

<sup>24</sup> Senate Standing Committee for the Scrutiny of Bills, Agriculture (Biosecurity Protection) Charges Bill 2024 and Agriculture (Biosecurity Protection) Levies Bill 2024, *Scrutiny Digest 4 of 2024*; [2024] AUSStaCSBSD 51, p. 4.

<sup>25</sup> Senate Standing Committee for the Scrutiny of Bills, Agriculture (Biosecurity Protection) Charges Bill 2024 and Agriculture (Biosecurity Protection) Levies Bill 2024, *Scrutiny Digest 4 of 2024*; [2024] AUSStaCSBSD 51, pp. 10–14.

1.22 The Minister provided a response to the Scrutiny Committee on 15 April 2024, but at the time of writing the response was not publicly available.<sup>26</sup>

### **Human rights compatibility**

1.23 The Human Rights Committee did not comment on the bills.<sup>27</sup> However, the statement of compatibility with human rights contained in the EMs concluded that the bills are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.<sup>28</sup>

### **Conduct of the committee's inquiry**

1.24 The committee advertised the inquiry on its website and invited relevant stakeholders to provide submissions by 10 April 2024. The committee received 60 submissions, as well as additional information and answers to questions on notice, which are listed at Appendix 1.

1.25 The committee also held a public hearing in Canberra on Tuesday, 23 April 2024. A list of witnesses who gave evidence at the hearing is included in Appendix 2.

1.26 Links to public submissions, *Hansard* transcripts of evidence and other information published by the committee for this inquiry are available on the committee's [website](#).

### **Notes on references**

1.27 References to the committee *Hansard* transcript in this report is to the proof *Hansard*; page numbers may vary between the proof and official *Hansard* transcript.

### **Acknowledgment**

1.28 The committee thanks those individuals and organisations who contributed to the inquiry by preparing written submissions and giving evidence at the public hearing.

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<sup>26</sup> Senate Standing Committee for the Scrutiny of Bills, [Ministerial Responses](#) (accessed 30 April 2024).

<sup>27</sup> Parliamentary Joint Committee on Human Rights, *Report 2 of 2024*, 20 March 2024, p. 2.

<sup>28</sup> Agriculture (Biosecurity Protection) Levies Bill 2024 and the Agriculture (Biosecurity Protection) Charges Bill 2024, Explanatory Memorandum, pp. 32–39; Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024, Explanatory Memorandum, pp. 66–79.



# Chapter 2

## Key issues

2.1 This chapter explores the extent of support for the Agriculture (Biosecurity Protection) Levies Bill 2024, the Agriculture (Biosecurity Protection) Charges Bill 2024, and the Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024 (the bills). It examines some of the key issues raised by participants in relation to specific aspects of the bills during the inquiry.

### General views on the bills

2.2 There was broad support from various submitters for a strong and sustainable biosecurity funding mechanism that would protect Australia against the threat of exotic pests and diseases.<sup>1</sup> The principle that biosecurity is a shared responsibility between all stakeholders, including government, the public and industry, was acknowledged by most submitters including Cattle Australia, the NFF Horticulture Council, and NSW Farmers.<sup>2</sup>

2.3 The Department of Agriculture, Fisheries and Forestry (the department) highlighted that a 'sustainably funded biosecurity system is essential to protect Australia from potentially devastating pest and disease outbreaks, safeguard our \$84 billion agricultural, fisheries and forestry industries, and protect 1.6 million jobs across the agricultural supply chain'.<sup>3</sup>

2.4 However, many submitters opposed the biosecurity protection levy (BPL) as a component of a sustainable biosecurity model.<sup>4</sup> For example, the National Farmers' Federation (NFF) argued that it was 'concerned that the levy may have a distortionary impact on the rural research and development system given it does not appear to accord with underlying principles such as proper establishment processes, industry support, equitability and accountability'.<sup>5</sup>

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<sup>1</sup> See, for example, Australian Seed Federation, *Submission 21*, p. 1; WoolProducers Australia, *Submission 5*, p. 3; Livestock SA, *Submission 15*, pp. 1–2; Australian Fresh Produce Alliance, *Submission 38*, p. 2; Red Meat Advisory Council, *Submission 52*, p. 3.

<sup>2</sup> Cattle Australia, *Submission 25*, [pp. 1–2]; NFF Horticulture Council, *Submission 17*, p. 1. See also, AUSVEG, *Submission 4*, p. 4; Australian Macadamia Society, *Submission 55*, [p. 1]; Greenlife Industry Australia, *Submission 24*, [p. 2]; GrainGrowers, *Submission 8*, p. 1.

<sup>3</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 6.

<sup>4</sup> See, for example, Mr Colin Boyce MP, Federal Member for Flynn, *Submission 1*, p. 2; Australian Olive Association, *Submission 3*, pp. 1–2; AUSVEG, *Submission 4*, pp. 9–10; WoolProducers Australia, *Submission 5*, p. 3; NSW Farmers, *Submission 6*, p. 3; Australian Honey Bee Industry Council, *Submission 13*, [p. 4]; Oysters Tasmania, *Submission 19*, p. 1.

<sup>5</sup> National Farmers' Federation, *Submission 12*, p. 7.

- 2.5 Similarly, while welcoming the allocation of additional funding to biosecurity, the Invasive Species Council (ISC) commented that the way in which the BPL has been designed has been vague, and consultation limited:

Affected industries already contribute levies to biosecurity, some of which are voluntary. The levy in its current design does not consider the difference in risk from different products or pathways, and funding generated will not be earmarked for specific biosecurity activities or services, rather it will go to consolidated revenue of [the department] for any part of the portfolio.<sup>6</sup>

### **Comments on specific aspects of the bills**

- 2.6 Although submitter feedback addressed various aspects of the bills, most of the commentary centred on the following issues:

- consultation on the bills;
- impact on the existing levy system;
- transparency regarding the use of funds;
- hypothecation of revenue;
- timeframe for implementation; and
- potential alternative or additional revenue sources.

### **Consultation on the bills**

- 2.7 The department stated that the development of the bills was informed by extensive and targeted consultation with a wide range of industry stakeholders between August and September last year and following the introduction of the bills to the Parliament.<sup>7</sup>
- 2.8 The department further indicated that it had attended 82 meetings with industry groups and committees between May 2023 and February 2024.<sup>8</sup> It also told the committee that 'there were 92 written submissions to the consultation process, some of which we have on our website. In addition to the formal public consultation, we have engaged with a number of stakeholders through meetings, webinars and correspondence'.<sup>9</sup>

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<sup>6</sup> Invasive Species Council, *Submission 58*, p. 7.

<sup>7</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 4.

<sup>8</sup> Department of Agriculture, Fisheries and Forestry, answer to questions on notice from Senator Ciccone, 23 April 2024 (received 2 May 2024).

<sup>9</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 37.



2.9 However, many submitters expressed concern regarding the adequacy of consultation by the Australian Government (the government) and a failure to adequately address industry concerns.<sup>10</sup> For example, Livestock SA stated that from 'the beginning of the BPL introductory process, the consultation with industry has been inadequate, and this was reflected in the subsequent levy design'. Livestock SA argued that:

Producers and broader industry stakeholders were not given the opportunity for authentic dialogue with policy developers on the BPL design prior to its announcement. Communication throughout the process of BPL development has been unclear, leading to confusion and dissatisfaction for producers. Although some minor alterations to the BPL have been made following industry advice, insufficient effort has been invested to truly understand our producers' concerns and the levy remains unsuitable and inequitable as a result.<sup>11</sup>

2.10 Likewise, GrainGrowers stated that much of the engagement with industry 'has been through on-line submissions and meetings rather than face-to-face workshops or discussion, which infer inflexibility in the design and development'. It argued that:

This is not in line with the co-design approach that is being regularly used in policy and program design. As a consequence, we believe that there are serious risks that have not been accounted for in the design of the measure and there is the potential for unintended consequences that have not been accounted for.<sup>12</sup>

2.11 Grain Producers Australia (GPA) argued that the failure to identify risk creators and risk beneficiaries was another shortcoming of the policy design and consultation process.<sup>13</sup> GPA stated:

Being described as the only beneficiaries and forced to pay another levy—whilst the container levy remains unresolved—is a significant factor and a key reason why most all producer groups are opposed to the BPL, in one way or another, and have lost trust and confidence in the overall 'sustainable' funding model processes and hopes of any future effective engagement on it.<sup>14</sup>

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<sup>10</sup> See, for example, Greenlife Industry Australia, *Submission 24* pp. 4–5; Egg Farmers of Australia, *Submission 50*, pp. 3–4; Plant Industry Forum, *Submission 56*, pp. 7–8; AUSVEG, *Submission 4*, p. 8; WoolProducers Australia, *Submission 5*, p. 4; Australian Dairy Farmers, *Submission 14*, p. 1; Australian Banana Growers' Council, *Submission 22*, p. 1; Queensland Fruit & Vegetable Growers, *Submission 30*, p. 1; Australian Grape & Wine, *Submission 46*, pp. 1–2; Australian Mushroom Growers' Association, *Submission 47*, pp. 3–4; Abalone Council Victoria, *Submission 32*, [p. 1].

<sup>11</sup> Livestock SA, *Submission 15*, p. 3.

<sup>12</sup> GrainGrowers, *Submission 8*, p. 2.

<sup>13</sup> Grain Producers Australia, *Submission 57*, p. 26.

<sup>14</sup> Grain Producers Australia, *Submission 57*, p. 26.

2.12 In addition, the NFF emphasised that there continued to be a lack of detailed and clear information available to industry so close to the proposed implementation date:

The government has asserted that the BPL will generate revenue to contribute six per cent of the costs of sustainably funded biosecurity system, however it is not clear what the sustainability funded biosecurity system budget represents or how this may fluctuate or change over time. Further, we remain in the dark on specific details of the calculation of individual industries' levy rates or collection methodology, in regulation or otherwise.<sup>15</sup>

2.13 Cattle Australia argued that '[w]ithout appropriate implementation, co-design planning, stakeholder oversight and adequate safeguards, it will just be a tax on industry funded levy investment, rather than a levy jointly managed by industry and government, as a shared responsibility for improved biosecurity, sustainability and regional food security'.<sup>16</sup>

2.14 However, the department noted that it has addressed 'key concerns with the proposed design, regarding equity and fairness of levy rates, associated confusion with the existing agricultural levy system, and multiple imposition points for the commodities across the supply chain'.<sup>17</sup> In addition, the department highlighted plans for 'further engagement with stakeholders on the back of the more recent modelling and the new [gross value of production (GVP)] model that has been applied'.<sup>18</sup>

### **Impact on the existing levy system**

2.15 Some participants expressed concern the BPL may have a negative impact on the existing agricultural levy system.<sup>19</sup> For example, Sheep Producers Australia argued that 'under the agricultural levy system levies are established and managed through a carefully designed system underpinned by principles of equity, efficiency and transparency'. It argued that:

The rushed, ill-conceived and secretive approach to the design of the BPL stands in stark contrast to the strong foundations of the agricultural levy

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<sup>15</sup> National Farmers' Federation, *Submission 12*, p. 8.

<sup>16</sup> Cattle Australia, *Submission 25*, [p. 2].

<sup>17</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 37. See also, Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 4.

<sup>18</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 37.

<sup>19</sup> See, for example, Australian Sugar Milling Council, *Submission 2*, p. 5; GrainGrowers, *Submission 8*, p. 4; National Farmers' Federation, *Submission 12*, pp. 16–17; National Farmers' Federation Horticulture Council, *Submission 17*, p. 1; Seafood Industry Australia, *Submission 20*, p. 5.

system, leaving producers with no reason to support the BPL or engage in good faith on its final design and implementation.<sup>20</sup>

- 2.16 Australian Dairy Farmers (ADF) argued that the BPL has impeded the ability of the dairy sector to raise 'its own funds for purposes specific to improving on-farm biosecurity awareness and practices'.<sup>21</sup> It noted that:

Prior to the May 2023 Budget announcement, ADF was undertaking groundwork, including discussion with [the department], to enable it to propose to dairy farmers the striking of a 'biosecurity levy', the moneys from which would be held by [Animal Health Australia] and spent, under ADF guidance, on post-border, on-farm and supply-chain biosecurity improvements that are sorely needed.<sup>22</sup>

- 2.17 AUSVEG echoed these concerns and argued that the BPL could potentially pose risks to the viability of current levy structures:

Growers, when faced with additional levy fees, may be unable to pay both the new biosecurity protection tax and the current agricultural levies. This could result in growers reducing or eliminating their agricultural levies, which would then leave funding gaps in other critical services or funding mechanisms such as the Emergency Plant Pest Response.<sup>23</sup>

### ***Equitable collection of the BPL***

- 2.18 The department indicated that it has responded to feedback from stakeholders and the BPL rates would now be calculated based on each industry's proportionate share of the total GVP for the agriculture, fisheries, and forestry sector.<sup>24</sup> It noted that the BPL would also 'be tailored to individual products and goods to remove multiple imposition points across a product's supply chain, subject to further consultation'.<sup>25</sup>

- 2.19 While acknowledging that the government had changed the levy calculation to a model based on the GVP, many submitters remained concerned that the BPL would not be implemented equitably across all industries and products.<sup>26</sup> For example, the NFF argued that:

For some industries, the GVP model will result in more significant payments from smaller farm businesses (e.g. in some horticultural industries). There

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<sup>20</sup> Sheep Producers Australia, *Submission 54*, [p. 10].

<sup>21</sup> Australian Dairy Farmers, *Submission 14*, p. 1.

<sup>22</sup> Australian Dairy Farmers, *Submission 14*, p. 7.

<sup>23</sup> AUSVEG, *Submission 4*, p. 8.

<sup>24</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 5.

<sup>25</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 7.

<sup>26</sup> See, for example, NSW Farmers, *Submission 6*, [p. 2]; AUSVEG, *Submission 4*, p. 3; Livestock SA, *Submission 15*, p. 4; Seafood Industry Australia, *Submission 20*, p. 6; Greenlife Industry Australia, *Submission 24* pp. 5–6; Oysters Tasmania, *Submission 19*, p. 1.

has been no industry consultation on the GVP model. While this change claims to create a more equitable and fairer model, it ultimately fails to address the NFF's wide-ranging concerns.<sup>27</sup>

- 2.20 Indeed, the Australian Honey Bee Industry Council (AHBIC) noted that approximately half of the national honey crop was currently not subject to levies as it was produced by recreational beekeepers. AHBIC indicated that:

Relying on the current collection system will result in the 2,000 commercial beekeepers being burdened with the additional levies and the rest of the 47,000 recreational beekeepers continuing to benefit from the contributions of a few. This proposal of piggybacking on the existing levy system for our industry, will only exacerbate the inequities of the system.<sup>28</sup>

- 2.21 Similarly, Oysters Tasmania noted that the government 'does not know the identity of those who gather oysters, either commercially or recreationally, nor the value of this production'. As a result, it argued:

Any attempt to create from scratch a federal taxing regime covering the Tasmanian oyster farming sector, which is not currently subject to a federal agricultural levy, would involve transitional, administration, and compliance costs that would represent a prohibitively high proportion of revenue collected. It would also involve great arbitrariness.<sup>29</sup>

- 2.22 Greenlife Industry Australia argued that unlike other levies, the BPL 'cannot be passed on through supply chains as primary producers are generally price takers and do not set their commodity prices which fluctuate significantly based on supply and demand'. As such, it argued that 'it is highly likely there will be many instances where the BPL will erode any profit for the grower and in fact will deepen any market induced losses at any given time for our growers'.<sup>30</sup>

- 2.23 Several submitters also pointed to potential issues and weaknesses in the policy case for the BPL that were identified by the Productivity Commission, the Australian National University's Tax and Transfer Policy Institute, and the Office of Impact Analysis.<sup>31</sup>

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<sup>27</sup> National Farmers' Federation, *Submission 12*, p. 7.

<sup>28</sup> Australian Honey Bee Industry Council, *Submission 13*, [p. 3]. See also, Mr Danny Le Feuvre, Chief Executive Officer, Australian Honey Bee Industry Council, *Committee Hansard*, 23 April 2024, p. 29.

<sup>29</sup> Oysters Tasmania, *Submission 19*, p. 1.

<sup>30</sup> Greenlife Industry Australia, *Submission 24*, p. 6.

<sup>31</sup> See, for example, Livestock SA, *Submission 15*, p. 4; Australian Olive Association, *Submission 3*, pp. 2–3; WoolProducers Australia, *Submission 5*, pp. 4–5; NSW Farmers, *Submission 6*, [p. 3]; GrainGrowers, *Submission 8*, p. 3; Australian Dairy Farmers, *Submission 14*, pp. 1–2; AUSVEG, *Submission 4*, pp. 7–8; NSW Farmers, *Submission 6*, [p. 3]; Australian Banana Growers' Council, *Submission 22*, p. 2; The Australian Chicken Meat Federation, *Submission 31*, [pp. 4–7].

### ***Recognition of existing contributions***

2.24 Several participants commented that there was a lack of recognition that producers already contributed to Australia's biosecurity system through existing national subscriptions and levies.<sup>32</sup>

2.25 WoolProducers Australia, for example, argued that the BPL ignores the existing significant financial and in-kind contributions that Australian producers already make towards the national biosecurity system:

... I think one of the main issues with the approach taken for the proposed introduction of this levy is the complete disregard for the contribution that producers already pay to the national biosecurity system. Yes, we are beneficiaries, but there are many other beneficiaries as well. Whether it's a state or a national levy, we contribute significantly, and there has been no acknowledgement of that.<sup>33</sup>

2.26 Many participants also viewed the BPL as being inconsistent with the existing guidelines and principles around the establishment of agricultural levies.<sup>34</sup> For example, NFF Horticulture Council argued that:

As a levy, the BPL falls short of every one of the 12 Levy Principles introduced and adhered to by government and industry alike since 1997. As a tax, which inarguably the BPL is more accurately categorised, it also falls well short of best practice, including the design principles for the tax and transfer system applied by the Henry Tax Review of 2009 of equity, efficiency, simplicity, sustainability and policy consistency.<sup>35</sup>

### **Transparency regarding the use of funds**

2.27 The department reiterated that the BPL would form part of a more sustainable funding model for Australia's biosecurity system. The department noted that the model would 'remove unpredictability and inconsistency in funding and increase funding to a stable and predictable level, which allows us to plan with

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<sup>32</sup> See, for example, Plant Industry Forum, *Submission 56*, pp. 13–14; Australian Sugar Milling Council, *Submission 2*, pp. 3–4; Australian Olive Association, *Submission 3*, p. 2; National Farmers' Federation, *Submission 12*, pp. 19–20; AUSVEG, *Submission 4*, p. 9; National Farmers' Federation Horticulture Council, *Submission 17*, p. 1.

<sup>33</sup> Ms Jo Hall, Chief Executive Officer, WoolProducers Australia, *Committee Hansard*, 23 April 2024, p. 19. See also, WoolProducers Australia, *Submission 5*, p. 3 (citation omitted).

<sup>34</sup> See, for example, AUSVEG, *Submission 4*, pp. 9–10; National Farmers' Federation, *Submission 12*, pp. 15–16; Australian Dairy Farmers, *Submission 14*, p. 4; Australian Chicken Meat Federation, *Submission 31*, [pp. 3–4].

<sup>35</sup> National Farmers' Federation Horticulture Council, *Submission 17*, p. 2. See also, Mr Richard Shannon, Executive Officer, National Farmers' Federation Horticulture Council, *Committee Hansard*, 23 April 2024, p. 35.

certainty, to make long-term investments in preparedness for the rapidly growing threat and complexity'.<sup>36</sup>

- 2.28 The need for transparency, accountability, and reporting in relation to the revenue raised through the BPL, was a consistent theme in submissions to the inquiry.<sup>37</sup> For example, the Australian Forest Products Association raised concerns that there would be no accountability on how the revenue raised would be allocated:

As proposed, the Biosecurity Protection tax will go to consolidated revenue. This government or future ones, have no obligation to use the revenue received for the purposes for which it was collected. Further, in the proposed funding framework there is no provision for the department to provide accurate, timely reporting on how industry funds are used to support biosecurity and the benefits to producers.<sup>38</sup>

- 2.29 GrainGrowers highlighted that it was important that the BPL was 'differentiated on grower invoices from existing industry levies which have been agreed to by industry'. GrainGrowers argued that:

It is also important that levy collected by the department is clearly and transparently reported by the department in its financial reports to ensure that the department and government can be held to account. Actual rates of collection should be reported against the budgeted collection rates for each industry to ensure there is transparency, along with the administrative costs of collection and compliance associated with the levy.<sup>39</sup>

- 2.30 The department indicated that 'revenue collected from the BPL will support the permanent increase to the annual budget appropriation for Commonwealth funded biosecurity activities'.<sup>40</sup> It also pointed to the establishment of the Sustainable Biosecurity Funding Advisory Panel, which would provide increased transparency of biosecurity expenditure:

The new advisory panel has been created to provide increased transparency for key contributors of biosecurity funding including producers and importers and will build closer collaboration between government and key

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<sup>36</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 38.

<sup>37</sup> See, for example, National Farmers' Federation, *Submission 12*, pp. 17–19; Livestock SA, *Submission 15*, p. 4; AUSVEG, *Submission 4*, p. 8; Seafood Industry Australia, *Submission 20*, p. 6.

<sup>38</sup> Australian Forest Products Association, *Submission 48*, p. 5.

<sup>39</sup> GrainGrowers, *Submission 8*, pp. 4–5.

<sup>40</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 8. See also, Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 38.

stakeholders, with regular meetings to share insights, and discuss biosecurity priorities.<sup>41</sup>

### **Hypothecation of revenue**

2.31 The department emphasised that the revenue collected from the BPL would underpin increased government appropriation to directly support biosecurity activities. The department argued:

The additional contributions to consolidated revenue support the Commonwealth's capacity to provide the significantly and permanently increased annual budget appropriation for Commonwealth biosecurity functions. This stable and predictable budget allocation is critical to enable long term management of Commonwealth biosecurity resources.<sup>42</sup>

2.32 However, some participants expressed concern that the funds collected under the BPL would be part of consolidated revenue, with no clarity that the levy funds will go towards industry biosecurity measures.<sup>43</sup> For example, the Australian Nut Industry Council (ANIC) stated that:

Unlike traditional biosecurity funding, which is directly reinvested into specific biosecurity projects, the proposed levy will contribute to general consolidated revenue. This approach does not ensure that the funds will be used to achieve tangible biosecurity outcomes, thereby diminishing the purpose of the levy.<sup>44</sup>

2.33 ADF commented that there was 'considerable uncertainty that all the revenue collected via this charge will be spent on biosecurity or will result in an equivalent increase in biosecurity funding, especially if utilised to help cover existing departmental deficit budgets'.<sup>45</sup>

2.34 Likewise, Australian Grape & Wine commented that there was a lack of oversight applied within the bills regarding the allocation and dispersal of the revenue to be collected:

In the case of levies, there should be a clear relationship between the liability and the provision of a service for which it is exacted. However, the bill shows that the revenue remains non-hypothecated with funding going into consolidated revenue. According to the Australian Government Department for Finance's cost recovery policy, a levy differs from general

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<sup>41</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 9. See also, Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 45.

<sup>42</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 9.

<sup>43</sup> See, for example, Red Meat Advisory Council, *Submission 52*, p. 7; AUSVEG, *Submission 4*, p. 8; Egg Farmers Australia, *Submission 50*, p. 1; Berries Australia, *Submission 51*, p. 5; Australian Forest Products Association, *Submission 48*, p. 5.

<sup>44</sup> Australian Nut Industry Council, *Submission 40*, p. 1.

<sup>45</sup> Australian Dairy Farmers, *Submission 14*, p. 6.

taxation as it should be 'earmarked' to fund activities provided to the group that pays the levy. That same policy advises that it is usually inappropriate to cost recover activities such as law enforcement and national security.<sup>46</sup>

### Potential alternatives

2.35 Several submitters pointed to potential alternatives to the BPL, including recommendations of the Craik Review relating to the introduction of a container levy.<sup>47</sup> The NFF, for example, emphasised the need for increased contributions from risk creators, including container imports:

With respect to the 'Container Levy' or equivalent measure, Australian agriculture has advocated for many years the need for a broad-based levy on inbound containers to help fund the biosecurity system. This call has been supported by environmental and invasive species organisations. Producers were extremely disappointed that this was not included in the May budget.<sup>48</sup>

2.36 In addition, the Freight and Trade Alliance (FTA) and the Australian Peak Shippers Association (APSA) supported 'the need to protect against biosecurity risks and would be prepared to pay an additional levy or cost recovery fee on the proviso that an appropriate proportion directly translates to commensurate improved and immediate trade facilitation measures'.<sup>49</sup>

2.37 This initiative from the FTA and APSA was supported by many submitters, including the NSW Farmers' Association, Australian Grape & Wine, and Western Australian Farmers' Federation.<sup>50</sup>

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<sup>46</sup> Australian Grape & Wine, *Submission 46*, [p. 4].

<sup>47</sup> See, for example, AUSVEG, *Submission 4*, p. 7; WoolProducers Australia, *Submission 5*, p. 4; NSW Farmers, *Submission 6*, [p. 2]; GrainGrowers, *Submission 8*, p. 4; Australian Nut Industry Council, *Submission 40*, p. 2; Red Meat Advisory Council, *Submission 52*, p. 8; Almond Board of Australia, *Submission 18*, p. 1.

<sup>48</sup> National Farmers' Federation, *Submission 12*, p. 7. See also, Mr Tony Mahar, Chief Executive Officer, National Farmers' Federation, *Committee Hansard*, 23 April 2024, p. 27.

<sup>49</sup> Freight & Trade Alliance and the Australian Peak Shippers Association, *Submission 9*, p. 3. See also, Australian Grape & Wine, *Submission 46*, p. 3; National Farmers' Federation, *Submission 12*, p. 8; NSW Farmers' Association, *Submission 6*, [p. 2]; Western Australian Farmers' Federation, *Submission 34*, pp. 2–3; Australian Olive Association, *Submission 3*, p. 2; NSW Farmers, *Submission 6*, [p. 2].

<sup>50</sup> See, for example, NSW Farmers' Association, *Submission 6*, [p. 2]; Australian Grape & Wine, *Submission 46*, p. 3; National Farmers' Federation, *Submission 12*, p. 8; Western Australian Farmers' Federation, *Submission 34*, pp. 2–3; Australian Olive Association, *Submission 3*, p. 2; Melons Australia, *Submission 53*, pp. 4–5.



2.38 The Australian Fresh Produce Alliance (AFPA) also outlined alternative proposals to achieve a more equitable outcome, including a tiered business turnover based BPL that is distributed across the industry equitably:

The preferred tiered business turnover-based BPL recommends businesses make a fixed contribution based on which annual turnover bracket they are within, ensuring a more equitable distribution of the BPL. This approach offers easy administration and adjustment and aligns with the government's goal of creating a fairer payment system.<sup>51</sup>

2.39 The ISC suggested two potential alternative mechanisms, including an environment protection levy on imports, and risk insurance for biosecurity activities relating to imports. It argued that these alternative mechanisms would 'provide the best potential outcomes for equity, environment, and the broader biosecurity system'.<sup>52</sup>

2.40 In response, the department stated that the Craik Review had also identified the supplementing of the charge on the Full Import Declarations (FID) as an alternative to the introduction of a container levy and noted that the government had increased the FID charge for sea cargo from \$49 to \$63.<sup>53</sup> The department told the committee that:

As at 15 April 2024, cost recovery and revenue from importers was \$281.4 million for financial year 2023–24. That includes an additional \$36.5 million resulting from increases to the FID and other charges that took effect from 1 July. I should also note that a new charge on goods valued under \$1,000 imported by air and sea will be introduced from 1 July 2024, which will cover an additional \$27 million annually from importers.

Taken together, these changes mean that in 2024–25 we expect that our revenue from importers will be over \$390 million.<sup>54</sup>

2.41 Furthermore, the department highlighted that 'Australia would need to ensure that any new container levy or similar charge on imports would be consistent with Australia's international trade law obligations and the Commonwealth charging framework'.<sup>55</sup> The department argued:

In short and simple terms, we need to comply with our international trade obligations, which come from the World Trade Organization and our free-trade agreements, and they provide the discipline with regard to the kinds

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<sup>51</sup> Australian Fresh Produce Alliance, *Submission 38*, p. 3.

<sup>52</sup> Invasive Species Council, *Submission 58*, p. 8. See also, Mr Lyall Grieve, Conservation and Biosecurity Analyst, Invasive Species Council, *Proof Committee Hansard*, 23 April 2024, p. 14.

<sup>53</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 10.

<sup>54</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 38.

<sup>55</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 10. See also, Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, pp. 38–39.

of charges we can levy on imports. As a principle, we cannot treat imports differently from domestically produced goods to raise internal revenue, so this is a two-way street. These obligations significantly benefit Australia, with over 70 per cent of all Australian agricultural produce being exported and with a forecast value of \$71.6 billion in 2023–24.<sup>56</sup>

### **Timeframe for implementation**

2.42 The department has indicated that it plans to complete its engagement with industry stakeholders with a view to having the levy in place on 1 July 2024.<sup>57</sup> This would also include an information campaign to commence in advance of the commencement date.<sup>58</sup>

2.43 However, concerns were raised by participants in relation to the short timeframe for policy development, impact analysis and implementation of the BPL.<sup>59</sup> For example, AgForce argued that it would impact producers across all commodities and supply chain participants:

The government's headstrong adherence to the 1 July 2024 timeframe has undermined appropriate consultation and does not allow for the robust processes necessary to develop a policy of this importance. As such, AgForce is deeply concerned about the risk of negative, unintended consequences for agricultural stakeholders and the potential to undermine stability of Australia's world leading biosecurity system.<sup>60</sup>

2.44 Given the complexities of the seafood industry, the Australian Barramundi Farmers Association also argued that setting up fair and equitable levy rates, collection points and structures for the seafood sector by the deadline would be extremely difficult:

With the exception of one aquaculture sector, there are no existing levy structures within the seafood sector to which the Biosecurity Protection Levy could be appended, and there are limited common product aggregation points in the seafood supply chain.<sup>61</sup>

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<sup>56</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 39.

<sup>57</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, pp. 37.

<sup>58</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 10. See also, Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, pp. 38–39.

<sup>59</sup> See, for example, National Farmers' Federation, *Submission 12*, pp. 14–15; Sheep Producers Australia, *Submission 54*, [p. 9]; Seafood Industry Australia, *Submission 20*, pp. 6–7; Australian Prawn Farmers Association, *Submission 23*, p. 5; Grain Trade Australia, *Submission 29*, p. 2.

<sup>60</sup> AgForce Queensland Farmers, *Submission 16*, p. 1.

<sup>61</sup> Australian Barramundi Farmers Association, *Submission 11*, p. 5.

- 2.45 In addition, GrainGrowers argued that uncertainty still existed 'around the levies and charges that would be associated with this legislation, and much of the detail on levy rates and the way that they are set will be established through regulation'. It noted that 'in the absence of this detail it is not clear what the impact will be for agricultural industries'.<sup>62</sup>
- 2.46 Some submitters called for the BPL to be delayed until there was capacity to implement across industries.<sup>63</sup> Others argued that a formal review of the proposed BPL should be conducted following its implementation, including an assessment of the regulatory costs and efficiency of the levy.<sup>64</sup>
- 2.47 The department has pointed out that the design and implementation of the proposed BPL would 'be subject to review by the department every three years in relation to rates and a review of the operation of the bills after three years'.<sup>65</sup>

### Committee view

- 2.48 The committee would like to thank participants for their engagement in the inquiry, as well as the government's consultation processes in the lead-up to the introduction of the bills.
- 2.49 The new BPL will ensure that those who directly benefit from Australia's strong biosecurity system make a modest and direct contribution to ensure the system is sustainably funded into the future. Indeed, the committee notes that the revenue collected from the BPL will support a permanent increase to the annual budget appropriation for Commonwealth funded biosecurity activities.
- 2.50 The committee heard that the BPL would complement the additional funding of more than \$1.03 billion over 4 years, and \$267 million per year from 2027–28, announced in the 2023–24 Budget. The committee also notes the increases in fees and charges for importers that came into effect in July last year, as well as the increase to the passenger movement charge from 1 July this year, will see risk creators contribute more to Commonwealth biosecurity funding.

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<sup>62</sup> GrainGrowers, *Submission 8*, p. 6. See also, Mr Zachary Whale, General Manager, Policy and Advocacy, GrainGrowers, *Committee Hansard*, 23 April 2023, pp. 1–2.

<sup>63</sup> See, for example, Grain Producers Australia, *Submission 57*, p. 31; Seafood Industry Australia, *Submission 20*, p. 2; Australian Prawn Farmers Association, *Submission 23*, p. 5; Fishing Families WA, *Submission 28*, p. 1; GrainGrowers, *Submission 8*, p. 7.

<sup>64</sup> See, for example, Mr Zachary Whale, General Manager, Policy and Advocacy, GrainGrowers, *Committee Hansard*, 23 April 2023, p. 3.

<sup>65</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 8. See also, Mrs Bronwen Jagers, First Assistant Secretary, Biosecurity Strategy and Reform Division, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 47.

- 2.51 While acknowledging stakeholder concerns about the design and effectiveness of the proposal, the committee understands that the BPL will not replace or duplicate the efforts of producers but will help support biosecurity activity to manage the risks of pests and diseases entering Australia. While primary producers are currently a beneficiary, they don't contribute directly to biosecurity efforts to manage the risks.
- 2.52 Contributions from producers, such as levies paid to Animal Health Australia and Plant Health Australia, do not fund the Commonwealth's biosecurity functions at the border. The department's functions at the border, along with policy and technical market access, the Indigenous Rangers Biosecurity Program, and supporting neighbouring countries to strengthen their biosecurity, are wholly funded by the government and not by agricultural producers.
- 2.53 Further, the department has addressed many of the concerns raised during the initial consultation process and has indicated that the rate will no longer be set in reference to 2020–21 agricultural levy rates. The department has also stated that the BPL will—subject to further consultation—be tailored to individual products to remove multiple imposition points across supply chains.
- 2.54 The committee notes that the option of a container levy continues to be raised as an alternative to the BPL. It is true that the container levy was canvassed in the Craik Review when that report was completed seven years ago in 2017. However, the committee notes that the Craik Review also stated that an alternative to a container levy would be to increase the FID charge that applies to container imports.
- 2.55 On this point, the committee notes that the government has increased the FID from 1 July 2023, a decision that effectively returned importer fees and charges to full cost recovery for the first time since 2015. This decision was acknowledged by Mr Chris Parker from Cattle Australia, who said that the 'changes to the FID are long overdue, given there's been no increase since 2015'.<sup>66</sup>
- 2.56 In relation to whether a container levy could be applied on top of the return to full cost recovery that has already occurred, the committee notes comments from the department at paragraph 2.41 that this may have implications for Australia's international trade obligations.

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<sup>66</sup> Dr Chris Parker, Chief Executive Officer, Cattle Australia, *Committee Hansard*, 23 April 2024, p. 10.

- 2.57 In addition, the committee notes that the previous government attempted to introduce a container levy, in the form of a 'biosecurity imports levy' in the 2018–19 Budget. That levy was intended to raise over \$100 million per year to fund biosecurity. However, the levy proposal was abandoned two years later, in May 2020, without having raised a single cent for biosecurity.
- 2.58 The committee notes the evidence from GPA that producers who have been asked to pay the BPL were not aware of the increase to FID charges for sea cargo. The committee finds this claim surprising as details about the increases in fees and charges for importers are publicly available on the department's website. The committee also notes that GPA's evidence is contrary to comments from Cattle Australia, which acknowledged that the changes to the FID were long overdue.
- 2.59 The committee acknowledges the establishment of the Sustainable Biosecurity Funding Advisory Panel (the Panel). The Panel will provide transparency and an opportunity for producers to provide input regarding the implementation of the BPL. The committee understands that an information campaign will also begin in advance of the 1 July 2024 commencement date.
- 2.60 In addition, the committee urges the department to ensure that it continues to engage those industries who have not yet been consulted in relation to the implementation of the BPL and conclude those consultations before the commencement date.
- 2.61 On balance, the committee is satisfied that the BPL will support the government's commitment to provide sustainable, predictable, and permanent biosecurity funding. It therefore recommends that the bills be passed.

### **Recommendation 1**

- 2.62 The committee recommends that the Senate pass the bills.**

**Senator Glenn Sterle**  
**Chair**



# Coalition Senators' dissenting report

## Introduction

- 1.1 The Coalition backs a sustainable funding model for the biosecurity system that supports and adapts to changing risks and operating models. This is evident in the *Commonwealth Biosecurity Strategy 2030*<sup>1</sup> released in 2021 and the 2021–22 Mid-Year Economic and Fiscal Outlook.<sup>2</sup>
- 1.2 The Coalition does not support taxing Australian farmers for the risk created by importers.
- 1.3 It is disappointing that the substantial progress made by the former Coalition government in developing a sustainable biosecurity funding model, which included an import container levy, was not implemented by the Labor government.
- 1.4 Australia's biosecurity system protects Australia's environment, economy, and way of life. The *Commonwealth Biosecurity 2030* document indicates 'Recent studies show Australia's biosecurity system is worth \$314 billion over 50 years (in present value)'.<sup>3</sup>

## Biosecurity Protection Levy

- 1.5 This inquiry has further reinforced the comments we made in response to the previous inquiry into the *Primary Industries (Excise) Levies Bill 2023 [Provisions]* and related bills.<sup>4</sup> At that time, we highlighted the concerns raised about the proposed Biosecurity Protection Levy (BPL) in the context of the broader consideration of the industry-imposed primary industries levies system.
- 1.6 As we pointed out, several stakeholders reiterated the importance of maintaining a distinction between the BPL and the Primary Industries (Excise) Levies Bill 2023. Yet this inquiry into the BPL, has re-emphasised the risk to the world class voluntary industry-imposed primary industries levies system that pays for research and development, marketing, biosecurity activities and biosecurity emergency responses.

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<sup>1</sup> Australian Government, Department of Agriculture, Water and the Environment, [Commonwealth Biosecurity 2030](#), p. 7 (accessed 8 May 2024).

<sup>2</sup> Australian Government, Department of Agriculture, Water and the Environment, [Delivering Ag2030: February 2022](#), February 2022, p. 16 (accessed 8 May 2024)

<sup>3</sup> Australian Government, Department of Agriculture, Water and the Environment, [Commonwealth Biosecurity 2030](#), p. 4 (accessed 8 May 2024).

<sup>4</sup> Senate Rural and Regional Affairs and Transport Legislation Committee, [Primary Industries \(Excise\) Levies Bill 2023 \[Provisions\] and related bills](#), February 2024, pp. 19–27.

- 1.7 The primary industry levies system is critical to the competitiveness, productivity, and sustainability of agriculture, which is facing increasing challenges from competitors, input costs, and climatic conditions.
- 1.8 The potential withdrawal or drop in funding from the industry-imposed primary industries levies, once the BPL is introduced, will be devastating for Australia's agriculture industry, other industries, the environment, and the community.
- 1.9 A number of RDCs voiced concerns that their capacity to invest in biosecurity R&D may be reduced as producers could choose to either reduce the amounts, they contribute through the agricultural levy system, or postpone increases in levies.<sup>5</sup>

### **General views on the bills**

- 1.10 The Bills include no detail on who the 'certain producers' are that will be expected to pay the levy or how much the levy will be. These details will be set out in regulations, which can be amended. In addition, the Rules will set out how the levy will be collected. All Bills lack sufficient details to determine the impact on the industry and those businesses who will be tasked to collect the levy.
- 1.11 This inquiry attracted 60 submissions—significantly more than the 15 submissions received for the earlier inquiry into the *Primary Industries (Excise) Levies Bill 2023 [Provisions]* and related bills. We note there was broad support from various submitters for a strong and sustainable biosecurity funding mechanism that would protect Australia against the threat of exotic pests and diseases.<sup>6</sup> The principle that biosecurity is a shared responsibility between all stakeholders, including government, the public and industry, was acknowledged by most submitters including Cattle Australia, the National Farmers Federation Horticulture Council, and NSW Farmers.<sup>7</sup>
- 1.12 Unfortunately, the inquiry report largely dismisses and fails to address the concept of shared responsibility with the onus of burden squarely falling on producers including many sectors which thus far have not been involved in the levy system.

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<sup>5</sup> Australian Government, Department of Agriculture, Fisheries and Forestry, [Biosecurity Protection Levy, Summary of consultation outcomes](#), February 2024, p.8 (accessed 8 May 2024).

<sup>6</sup> Australian Seed Federation, *Submission 21*, p. 1; WoolProducers Australia, *Submission 5*, p. 3; Livestock SA, *Submission 15*, pp. 1–2; Australian Fresh Produce Alliance, *Submission 38*, p. 2; Red Meat Advisory Council, *Submission 52*, p. 3.

<sup>7</sup> Cattle Australia, *Submission 25*, [pp. 1–2]; National Farmers' Federation Horticulture Council, *Submission 17*, p. 1. See also, AUSVEG, *Submission 4*, p. 4; Australian Macadamia Society, *Submission 55*, [p. 1]; Greenlife Industry Australia, *Submission 24*, [p. 2]; GrainGrowers, *Submission 8*, p. 1.



- 1.13 Many submitters opposed the BPL as a component of a sustainable biosecurity model.<sup>8</sup> For example, the National Farmers' Federation (NFF) argued that it was 'concerned that the levy may have a distortionary impact on the rural research and development system given it does not appear to accord with underlying principles such as proper establishment processes, industry support, equitability and accountability'.<sup>9</sup>
- 1.14 Similarly, while welcoming the allocation of additional funding to biosecurity, the Invasive Species Council (ISC) commented that the way in which the BPL has been designed has been vague, and consultation limited.<sup>10</sup>

### **Adequacy of consultation**

- 1.15 Consultation with industry around the specifics of this levy has been very poor. Industry was blindsided by the announcement of the BPL and was only offered consultation on the BPL after it was announced in the 2023–24 Budget.
- 1.16 There was no mention of a levy in the 2022 *Sustainable funding and investment to strengthen biosecurity: discussion paper*.<sup>11</sup> This is despite the Office of the Impact Analysis—*The Biosecurity Sustainable Funding Impact Analysis*—noting that 'the discussion paper included the option of a domestic levy as one of the funding options'.<sup>12</sup> This has caused confusion and ultimately put this process at risk.
- 1.17 Many submitters expressed concern regarding the adequacy of consultation by the Australian Government and a failure to adequately address industry concerns.<sup>13</sup> For example, Livestock SA stated that from 'the beginning of the BPL introductory process, the consultation with industry has been inadequate, and this was reflected in the subsequent levy design'.<sup>14</sup>

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<sup>8</sup> Mr Colin Boyce MP, Federal Member for Flynn, *Submission 1*, p. 2; Australian Olive Association, *Submission 3*, pp. 1–2; AUSVEG, *Submission 4*, pp. 9–10; WoolProducers Australia, *Submission 5*, p. 3; NSW Farmers, *Submission 6*, p. 3; Australian Honey Bee Industry Council, *Submission 13*, [p. 4]; Oysters Tasmania, *Submission 19*, p. 1.

<sup>9</sup> National Farmers' Federation, *Submission 12*, p. 7.

<sup>10</sup> Invasive Species Council, *Submission 58*, p. 7.

<sup>11</sup> No longer publicly available as of 8 May 2024—has been removed from the Department of Agriculture, Fisheries and Forestry 'have your say' [webpage](#).

<sup>12</sup> Department of the Prime Minister and Cabinet, Office of the Impact Analysis, [Biosecurity Sustainable Funding Impact Analysis](#), p. 7 (accessed 8 May 2024).

<sup>13</sup> Greenlife Industry Australia, *Submission 24*, pp. 4–5; Egg Farmers of Australia, *Submission 50*, pp. 3–4; Plant Industry Forum, *Submission 56*, pp. 7–8; AUSVEG, *Submission 4*, p. 8; WoolProducers Australia, *Submission 5*, p. 4; Australian Dairy Farmers, *Submission 14*, p. 1; Australian Banana Growers' Council, *Submission 22*, p. 1; Queensland Fruit & Vegetable Growers, *Submission 30*, p. 1; Australian Grape & Wine, *Submission 46*, pp. 1–2; Australian Mushroom Growers' Association, *Submission 47*, pp. 3–4; Abalone Council Victoria, *Submission 32*, p. 1.

<sup>14</sup> Livestock SA, *Submission 15*, p. 3.

- 1.18 Likewise, GrainGrowers stated that much of the engagement with industry 'has been through on-line submissions and meetings rather than face-to-face workshops or discussion, which infer inflexibility in the design and development'.<sup>15</sup>
- 1.19 Grain Producers Australia (GPA) argued that the failure to identify risk creators and risk beneficiaries was another shortcoming of the policy design and consultation process.<sup>16</sup>
- 1.20 In addition, the NFF emphasised that there continued to be a lack of detailed and clear information available to industry so close to the proposed implementation date:
- The government has asserted that the BPL will generate revenue to contribute six per cent of the costs of sustainably funded biosecurity system, however it is not clear what the sustainability funded biosecurity system budget represents or how this may fluctuate or change over time. Further, we remain in the dark on specific details of the calculation of individual industries' levy rates or collection methodology, in regulation or otherwise.<sup>17</sup>
- 1.21 Cattle Australia argued that 'without appropriate implementation, co-design planning, stakeholder oversight and adequate safeguards, it will just be a tax on industry funded levy investment, rather than a levy jointly managed by industry and government, as a shared responsibility for improved biosecurity, sustainability and regional food security'.<sup>18</sup>
- 1.22 Yet despite all of the evidence from many submitters and participants across all commodities and sectors about the lack of appropriate consultation, the report simply accepts the assurances given by the Department of Agriculture, Fisheries and Forestry (the department) that they had addressed 'key concerns'.<sup>19</sup> This is simply not acceptable. We believe that the government should undertake further specific face-to-face consultation with stakeholders and producers on the BPL.

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<sup>15</sup> GrainGrowers, *Submission 8*, p. 2.

<sup>16</sup> Grain Producers Australia, *Submission 57*, p. 26.

<sup>17</sup> National Farmers' Federation, *Submission 12*, p. 8.

<sup>18</sup> Cattle Australia, *Submission 25*, p. 2.

<sup>19</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 37.

## Impact on existing levy systems

- 1.23 Further, several submitters expressed concern that the BPL would have a negative impact on the existing agricultural levy system.<sup>20</sup>
- 1.24 Sheep Producers Australia argued that 'under the agricultural levy system levies are established and managed through a carefully designed system underpinned by principles of equity, efficiency and transparency'.<sup>21</sup>
- 1.25 Australian Dairy Farmers (ADF) argued that the BPL has impeded the ability of the dairy sector to raise 'its own funds for purposes specific to improving on-farm biosecurity awareness and practices'.<sup>22</sup>
- 1.26 GrainProducers indicated that in April 2022 they initiated member discussions about conducting a project to investigate whether the current levy-rates paid by producers are fit-for-purpose. Their submission claims that 'consultation on Grain Producer levies was sabotaged by BPL'.<sup>23</sup>
- 1.27 Again, the inquiry report accepts statements from the department that it has responded to feedback, and that the BPL would 'be tailored to individual products and goods to remove multiple imposition points across a product's supply chain, subject to further consultation'.<sup>24</sup>
- 1.28 Just 53 days out from implementation, there continues to be no clarity around who and how the levy will be collected, or how it will be imposed on a commodity, such as livestock, that can be transacted multiple times between a farmer, feed lot and abattoir.
- 1.29 Given the government appears set to proceed with implementation of the new BPL regime from 1 July 2024, there will clearly be limited, if any, opportunity for further (and certainly not genuine) consultation.

## Equitable collection of BPL

- 1.30 Levy rates will be set on the basis of each agriculture industry sector's proportional share of total gross value of production (GVP). For example, cattle producers contribute 18 per cent to Australian agriculture's total GVP (based on a 3-year average), so they will contribute 18 percent of the total Levy, which is about \$9.3 million. Banana growers contribute 0.7 per cent to total GVP, which leaves them with a bill of \$368,000 towards the Levy.

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<sup>20</sup> Australian Sugar Milling Council, *Submission 2*, p. 5; GrainGrowers, *Submission 8*, p. 4; National Farmers' Federation, *Submission 12*, pp. 16–17; National Farmers' Federation Horticulture Council, *Submission 17*, p. 1; Seafood Industry Australia, *Submission 20*, p. 5.

<sup>21</sup> Sheep Producers Australia, *Submission 54*, p. 10.

<sup>22</sup> Australian Dairy Farmers, *Submission 14*, p. 1.

<sup>23</sup> Grain Producers Australia, *Submission 57*, p. 20.

<sup>24</sup> Department of Agriculture, Fisheries and Forestry, *Submission 37*, p. 7.

1.31 But the fact remains, the BPL as currently designed, will not be implemented equitably across all industries and products.<sup>25</sup> This point is illustrated by the Australian Honey Bee Council which noted in its submission and in evidence given at the public hearing on 23 April 2024, that approximately half of the national honey crop was currently not subject to levies as it was produced by recreational beekeepers.<sup>26</sup> Further, Oysters Tasmania noted that the government 'does not know the identity of those who gather oysters, either commercially or recreationally, nor the value of this production'.<sup>27</sup>

### ***Recognition of existing contributions***

1.32 As currently proposed, and pointed out by several submitters<sup>28</sup>, the BPL fails to adequately recognise the existing contributions to Australia's biosecurity system made by producers across several industries. In evidence given at the public hearing on 23 April 2024, Ms Jo Hall, CEO, WoolProducers Australia stated 'the approach taken for the proposed introduction of this levy is the complete disregard for the contribution that producers already pay to the national biosecurity system'.<sup>29</sup>

1.33 Again, rather than suggest a way that this might be addressed, or requesting further detail or evidence, the report blindly accepts statements from the department that the BPL would form part of a more sustainable funding model for Australia's biosecurity system.<sup>30</sup>

1.34 GPA indicates that in 2022-23, the Grains Research and Development Corporation invested \$42.3 million into biosecurity projects and initiatives, and over the last six years this total has been about \$220 million.<sup>31</sup>

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<sup>25</sup> NSW Farmers, *Submission 6*, [p. 2]; AUSVEG, *Submission 4*, p. 3; Livestock SA, *Submission 15*, p. 4; Seafood Industry Australia, *Submission 20*, p. 6; Greenlife Industry Australia, *Submission 24* pp. 5–6; Oysters Tasmania, *Submission 19*, p. 1.

<sup>26</sup> Mr Danny Le Feuvre, Chief Executive Officer, Australian Honey Bee Council, *Committee Hansard*, 23 April 2024, p. 29.

<sup>27</sup> Oysters Tasmania, *Submission 19*, p. 1.

<sup>28</sup> AUSVEG, *Submission 4*, pp. 9–10; National Farmers' Federation, *Submission 12*, pp. 15–16; Australian Dairy Farmers, *Submission 14*, p. 4; Australian Chicken Meat Federation, *Submission 31*, pp. 3–4.

<sup>29</sup> Ms Jo Hall, Chief Executive Officer, WoolProducers Australia, *Committee Hansard*, 23 April 2024, p. 19.

<sup>30</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 38.

<sup>31</sup> Grain Producers Australia, *Submission 57*, p. 8.

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- 1.35 In addition, a Biosecurity Activity Levy is paid by grain producers to fund the Grains Farm Biosecurity Program and website (\$970,000 average per year over last five years) and Plant Health Australia membership (\$418,000 average per year over last five years).
- 1.36 GPA goes on to say that the Biosecurity Emergency Response Levy is also paid by grain producers and funds the costs of emergency responses for grains related pests and diseases. This fund has intentionally accumulated over a number of years in order to pay for future emergency responses. On 30 June 2023, it had an estimated balance of about \$7 million. Emergency response expenditure over the five years to 30 June 2023 will total about \$3.1 million. These funds have contributed to responses to: Khapra beetle, *Varroa jacobsoni*, Brown Marmorated Stink Bug and Red Witchweed.<sup>32</sup>
- 1.37 Under the GVP model proposed by the Labor government, the BPL for grains will be over \$12 million per year.
- 1.38 In terms of a small industry like Summerfruits, their commitments to Australian biosecurity are:
- past spend of \$169,252;
  - ongoing annual spend of \$20,000; and
  - current biosecurity liability of \$544,200.
- 1.39 This does not take account the numerous hours spent by staff and volunteers on biosecurity issues and incidents.<sup>33</sup> The BPL for Summerfruits has been calculated as an extra \$234,705.
- 1.40 The BPL will have a compounding effect on the current investment made by industry.

### **Collecting the levy**

- 1.41 It is still not clear how the levy will be collected. If the levy is collected through a third party (collection agent) then an invoice must be provided to the levy payer within seven days. GrainGrowers indicated 'the proposed levy must be recorded as a separate line item on grower invoices to ensure it is distinguishable from existing industry levies and there is transparency in charges applied'.<sup>34</sup>
- 1.42 Under the industry-imposed primary industries levy system there are around 7,000 collection agents.

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<sup>32</sup> Grain Producers Australia, *Submission 57*, p. 9.

<sup>33</sup> Summerfruit Australia, *Submission 41*, p. 3.

<sup>34</sup> GrainGrowers, *Submission 8*, p. 5.

1.43 The Australian Livestock and Property Agents (ALPA) submission concurs with the following findings of Department of Agriculture, Fisheries and Forestry, Biosecurity Protection Levy Summary of consultation outcomes, February 2024, Third Party Impacts:

A number of stakeholders, particularly collection agents, raised concerns regarding third party costs and impacts associated with the BPL such as changes to broker ICT systems and software, increased fees, and increased costs associated with BPL administration and compliance. The department's discussions with brokers and ICT/software companies have indicated that changes to system and collection mechanisms, based on the policy as proposed, would be relatively minor and straightforward. The key issue raised with the department is that ICT companies may require several months' lead time to make the necessary software changes to allow system updates and roll-out to collection agents. The issue of who pays for ICT upgrades to software and the additional work for primary producers was raised by several stakeholders.<sup>35</sup>

1.44 ALPA stated in their submission that it is 'extremely concerned for our members to be in any way prepared for the introduction of the BPL given the 1 July commencement, compounded by the level of costs they will incur to do so. The how and what of collection needs to be confirmed'.<sup>36</sup>

1.45 The National Council of Wool Selling Brokers of Australia submission asked, 'will the government be reimbursing wool brokers for the added administrative cost incurred from the role of levy collectors?'.<sup>37</sup>

1.46 The Office of Impact Analysis indicates that 'there are existing collection agent arrangements that can be leveraged'.<sup>38</sup> The Regulatory Impact Analysis does not include any analysis of the impacts on collection agents. In addition, the analysis does not include the impact on industries that currently do not have a levy where a new process must be set up, such as growers paying direct to the department. Again, this impact cannot be confirmed.

## Penalties and compliance

1.47 The Collection Bill will trigger the *Regulatory Powers (Standard Provisions) Act 2014* allows for certain enforcement actions including:

- monitoring and investigation powers;
- enabling the issuing of infringement notices to support a flexible compliance approach that reserves criminal penalties for the most serious offences;

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<sup>35</sup> Australian Government, Department of Agriculture, Fisheries and Forestry, [Biosecurity Protection Levy, Summary of consultation outcomes](#), February 2024, p.8 (accessed 8 May 2024).

<sup>36</sup> Australian Livestock and Property Agents Association, *Submission 26*, p. 5.

<sup>37</sup> National Council of Wool Selling Brokers of Australia, *Submission 27*, p. 1.

<sup>38</sup> Department of the Prime Minister and Cabinet, Office of the Impact Analysis, [Biosecurity Sustainable Funding Impact Analysis](#), p. 6 (accessed 8 May 2024).

- late payment penalties applicable if a levy or charge is not paid on time based on a complex formula with a three-step method. The amount of penalty for a day is based on a rate of two (2) percent per month.
- There are penalties for failing to:
  - give a return or notice under the rules - 60 penalty units;
  - make or keep records in accordance with the rules - 60 penalty units.

1.48 These penalties commence:

- If the Act receives Royal Assent before 1 July 2024 – on 1 July 2024;
- If the proposed Act receives the Royal Assent on or after 1 July 2024 – on a single day to be fixed by Proclamation.

1.49 This is concerning given that penalties will potentially commence with the current level of confusion around requirements and design details still being finalised.

1.50 The Explanatory Memorandum indicates that there 'are specialised staff who carry out compliance activities in relation to the existing agriculture levy system' and who 'specialise in undertaking compliance operations and activities, including inspections, following up missing levy returns, debt recovery actions, issuing of notices, and education of collection agents. For example, for the 2022–23 financial year, the department estimates that the Levies Compliance Team undertook almost 10,000 compliance-related actions'.<sup>39</sup>

1.51 This high level of compliance-related actions against an existing long-standing process is also concerning given there will be a new levy imposed, with confusion and details yet to be finalised.

1.52 The costs associated with the establishment, collection and administration of the BLP will be funded by an appropriation, as outlined in the 2023-24 Budget papers, of 0.8 million per year.<sup>40</sup>

## Levy or tax?

1.53 During the public hearing held on 23 April 2024, Senators asked the department about its advice to government proposing a levy on farmers, to raise \$50 million and questioned if it had been a decision of government to go with the BPL levy? In response, the department advised:

As part of the Sustainable Biosecurity Funding proposal the department provided advice to government about a range of potential funding options. This included a potential new contribution from primary producers. The proposal was informed by stakeholder consultation undertaken in late 2022

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<sup>39</sup> Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024, Explanatory Memorandum, p. 56 (accessed 8 May 2024).

<sup>40</sup> Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024, Explanatory Memorandum, p. 2 (accessed 8 May 2024).

which invited submissions on a range of potential funding sources, including increased contributions from beneficiaries of the biosecurity system.<sup>41</sup>

- 1.54 The department advised that revenue collected from the BPL 'will support the permanent increase to the annual budget appropriation for Commonwealth funded biosecurity activities'.<sup>42</sup> It also pointed to the establishment of the Sustainable Biosecurity Funding Advisory Panel, which would provide increased transparency of biosecurity expenditure. However, in response to a Question on Notice taken at the hearing on 23 April 2024, the department advised:

The Sustainable Biosecurity Funding Advisory Panel (advisory panel) will provide a mechanism for biosecurity stakeholders to advise, guide and support the Secretary of the Department of Agriculture, Fisheries and Forestry (DAFF) as the Director of Biosecurity on biosecurity priorities, and for DAFF to **inform panel members how Commonwealth biosecurity funding is being used**.<sup>43</sup>

- 1.55 This reinforces the considerable concern expressed by participants that the funds collected under the BPL would go into consolidated revenue, with no clarity or certainty that these would be directed towards industry biosecurity measures.<sup>44</sup>
- 1.56 We contend that rather than a levy, this is a tax being placed on hard working farmers and their families. As argued by Greenlife Industry Australia, unlike other levies, the BPL 'cannot be passed on through supply chains as primary producers are generally price takers and do not set their commodity prices which fluctuate significantly based on supply and demand'. As such, 'it is highly likely there will be many instances where the BPL will erode any profit for the grower and in fact will deepen any market induced losses at any given time for our growers'.<sup>45</sup>

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<sup>41</sup> Response to Question on Notice (IQ24-000043), Department of Agriculture, Fisheries and Forestry received 6 May 2024.

<sup>42</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 38.

<sup>43</sup> Response to Question on Notice (IQ24-000041), Department of Agriculture, Fisheries and Forestry received 6 May 2024 (emphasis added).

<sup>44</sup> Red Meat Advisory Council, *Submission 52*, p. 7; AUSVEG, *Submission 4*, p. 8; Egg Farmers Australia, *Submission 50*, p. 1; Berries Australia, *Submission 51*, p. 5; Australian Forest Products Association, *Submission 48*, p.5.

<sup>45</sup> Greenlife Industry Australia, *Submission 24*, p. 6.



## Office of Impact Analysis

- 1.57 The Office of Impact Analysis determined that the policy proposal for the BPL was not 'good practice'.
- 1.58 The lack of an extensive regulatory impact statement and cost-benefit analysis does not give a full indication of the impact to farmers and collection agents. This lack of information is also affecting the confidence in the ability for the department to deliver effective biosecurity measures through the BPL.
- 1.59 The impact analysis indicates that 'some of the BPL cost applied to producers would be passed through the domestic supply chain to consumers'.<sup>46</sup> This will add to the cost-of-living crisis.

## Independent scrutiny

- 1.60 Independent academics from the ANU's Tax and Transfer policy institute prepared a policy brief in February 2024 which concluded that, 'overall the government's package to implement the BPL does not pass critical scrutiny', and 'given a list of weaknesses of the proposed BPL, an alternative policy approach is desirable'.<sup>47</sup>
- 1.61 A Productivity Commission research paper published in December 2023 used the BPL as a case study, raising numerous red flags about the policy design. The Commission identified eight warning signs with the BPL relating to other sectors benefiting, free-riding, the absence of a cost-benefit analysis, the levy not being imposed on an efficient tax base and the policy intervention is likely to come at a higher cost than necessary, not having widespread industry support, levy payers unlikely to monitor and influence how the levy proceeds are used and that levy payers will not be able to vote to continue or discontinue the levy.<sup>48</sup>

## Alternative options

- 1.62 The 2022-23 Budget measure for sustainable biosecurity funding outlined by the Labor Government did not include an Import Container Levy. At the Budget, Minister Watt committed to:

Importers' fees and charges will be reviewed and adjusted annually, and the department will work with industry to make sure our charging models are

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<sup>46</sup> Department of the Prime Minister and Cabinet, Office of the Impact Analysis, [Biosecurity Sustainable Funding Impact Analysis](#), p. 6 (accessed 8 May 2024).

<sup>47</sup> Australian National University, Tax and Transfer Policy Institute, Policy Brief 3/2024, [The biosecurity protection levy: Principles for design](#), February 2024, p. 5 (accessed 8 May 2024).

<sup>48</sup> Productivity Commission 2023, [Towards Levyathan? Industry levies in Australia, Research paper](#), Canberra, p. 28 (accessed 8 May 2024).

fit for purpose and as part of this, will look at other options including a possible future import or container levy.<sup>49</sup>

- 1.63 Several submitters pointed to potential alternatives to the BPL, including recommendations of the Craik Review relating to the introduction of a container levy.<sup>50</sup> The NFF, for example, emphasised the need for increased contributions from risk creators, including container imports, noting Australian agriculture has advocated for many years the need for a broad-based levy on inbound containers to help fund the biosecurity system. This call has been supported by environmental and invasive species organisations.<sup>51</sup>
- 1.64 In addition, the Freight and Trade Alliance (FTA) and the Australian Peak Shippers Association (APSA) supported 'the need to protect against biosecurity risks and indicated they **would be prepared to pay an additional levy or cost recovery fee** on the proviso that an appropriate proportion directly translates to commensurate improved and immediate trade facilitation measures'.<sup>52</sup> This initiative from the FTA and APSA was supported by many submitters, including the NSW Farmers' Association, Australian Grape & Wine, and Western Australian Farmers' Federation.<sup>53</sup>
- 1.65 In August 2023, a *Weekly Times* article reported that the Full Import Declaration (FID) lodgements awaiting assessment had increased from about 500 on July 1 to 3000 on August 28, after steadily increasing from almost zero on June 12.<sup>54</sup>

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<sup>49</sup> Senator the Hon Murray Watt, Minister for Agriculture, Fisheries and Forestry, 'Budget delivers first ever sustainable biosecurity funding', *Media Release*, 16 May 2023.

<sup>50</sup> AUSVEG, *Submission 4*, p. 7; WoolProducers Australia, *Submission 5*, p. 4; NSW Farmers, *Submission 6*, [p. 2]; GrainGrowers, *Submission 8*, p. 4; Australian Nut Industry Council, *Submission 40*, p. 2; Red Meat Advisory Council, *Submission 52*, p. 8; Almond Board of Australia, *Submission 18*, p. 1.

<sup>51</sup> National Farmers' Federation, *Submission 12*, p. 7. See also, Mr Tony Mahar, Chief Executive Officer, National Farmers' Federation, *Committee Hansard*, 23 April 2024, p. 27.

<sup>52</sup> Freight & Trade Alliance and the Australian Peak Shippers Association, *Submission 9*, p. 3. See also, Australian Grape & Wine, *Submission 46*, p. 3; National Farmers' Federation, *Submission 12*, p. 8; NSW Farmers' Association, *Submission 6*, [p. 2]; Western Australian Farmers' Federation, *Submission 34*, pp. 2–3; Australian Olive Association, *Submission 3*, p. 2; NSW Farmers, *Submission 6*, p. 2.

<sup>53</sup> NSW Farmers' Association, *Submission 6*, [p. 2]; Australian Grape & Wine, *Submission 46*, p. 3; National Farmers' Federation, *Submission 12*, p. 8; Western Australian Farmers' Federation, *Submission 34*, pp. 2–3; Australian Olive Association, *Submission 3*, p. 2; Melons Australia, *Submission 53*, pp. 4–5.

<sup>54</sup> Freight and Trade Alliance angered by Murray Watt social media post, *The Weekly Times*, Melbourne, 31 August 2023 ([weeklytimesnow.com.au](https://www.weeklytimesnow.com.au)).

- 1.66 Rather than considering the evidence presented through submissions and at the hearing, to inform their position, the report again defers to the department which responded with information about the increase in charge on the FID, likely income and Australia's trade law obligations.<sup>55</sup>
- 1.67 The Government has not worked with industry to fully explore the options for a sustainable funding mechanism and provided no evidence that a container levy would have trade implications.

### **Timeframe for implementation**

- 1.68 Despite detailed concerns from submitters and participants, the department has indicated that it plans to complete its engagement with industry stakeholders with a view to having the levy in place on 1 July 2024.
- 1.69 At best this demonstrates a lack of understanding of the impact on producers and supply chain participants<sup>56</sup> across all sectors, and at worst demonstrates total ignorance of the complexities facing industries where there are no existing levy structures.<sup>57</sup>
- 1.70 There are 84 commodities and 26 of these commodities do not currently have a levy. The department had not yet engaged with them. It is not known how the levy will be collected, including for smaller industries such as the deer industry which will be charged \$265. During a public hearing on 23 April 2024, the department confirmed that there had not been a cost-benefit study on 'whether it's worthwhile to charge the deer industry \$265, along with a lot of other industries—paltry amounts of money,' indicating that there had been an 'assessment of the levy as a concept'.<sup>58</sup> In responding to a Question on Notice, the department indicated that in 2022-23, there were 1,160 deer that were slaughtered at an abattoir for human consumption that would be subject to the deer slaughter levy. The deer slaughter levy payments are submitted on a monthly basis to the department.<sup>59</sup>

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<sup>55</sup> Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, pp. 38–39.

<sup>56</sup> AgForce Queensland Farmers, *Submission 16*, p. 1.

<sup>57</sup> Australian Barramundi Farmers Association, *Submission 11*, p. 5.

<sup>58</sup> Mrs Bronwen Jagers, First Assistant Secretary, Biosecurity Strategy and Reform Division, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 47.

<sup>59</sup> Response to Question on Notice (IQ24-000040) Department of Agriculture, Fisheries and Forestry, received 6 May 2024.

1.71 In response, the report again defers to the department's assurance that consultation will continue over the coming weeks and the design and implementation of the BPL would be subject to review by the department every three years.<sup>60</sup>

### **Concluding remarks**

1.72 The report sums up by stating that 'On balance, the committee is satisfied that the BPL will support the Government's commitment to provide sustainable, predictable and permanent biosecurity funding'.<sup>61</sup>

1.73 It is our view that there is very little balance in this report which completely ignores the overwhelming evidence presented by submitters and witnesses, that in the very least, far more work needs to be done in terms of consultation around design, implementation, and industry preparedness.

1.74 In summary, these are the reasons why this Bill should not be supported:

- the proposed Levy will impact nearly all of Australia's 85,000 farmers and thousands of supply chain participants;
- the Levy is set to commence in just a matter of weeks on 1 July 2024;
- Australian farmers, through the Levy, will contribute \$51.8 million to the total biosecurity funding package;
- farmers and agricultural businesses haven't been told how the Levy will be collected and managed;
- the Levy doesn't follow the usual rules for collecting and using industry levies - this could have a negative effect on Australia's existing levies system, which funds rural research and development, and impact industry spending on research and innovation;
- the policy doesn't align with the *National Biosecurity Strategy*, which Commonwealth, state and territory governments all agreed to; and
- we can't be sure that collected funds will be spent specifically on improved biosecurity, as they will go into general consolidated revenue.

1.75 On 8 May 2024, as the Committee's report was being considered and finalised, angry farmers representing more than 85,000 producers from right through the agricultural supply chain stood shoulder to shoulder at Beef Week 2024, urging the government to 'scrap the tax'.

1.76 We will continue to stand behind the continued push by farmers to oppose this tax.

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<sup>60</sup> Mrs Bronwen Jagers, First Assistant Secretary, Biosecurity Strategy and Reform Division, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 23 April 2024, p. 47.

<sup>61</sup> Senate Rural and Regional Affairs and Transport Legislation Committee, *Agriculture (Biosecurity Protection) Levies Bill 2024 [Provisions] and related bills*, May 2024, p. 23.

**Recommendation 1**

**1.77 That the Australian Government properly consult on a sustainable biosecurity funding mechanism including:**

- a full cost recovery basis for managing biosecurity risks of both passengers and commodities entering Australia; and
- an import container levy to pay for the biosecurity risk created.

**Recommendation 2**

**1.78 That the Senate does not pass the bills.**

**Senator the Hon Matthew Canavan  
Deputy Chair  
LNP Senator for Queensland**

**Senator Gerard Rennick  
Member  
LNP Senator for Queensland**



# Appendix 1

## Submissions and additional information

### Submissions

- 1 Mr Colin Boyce MP, Federal Member for Flynn
- 2 Australian Sugar Milling Council
- 3 Australian Olive Association
- 4 AUSVEG
- 5 WoolProducers Australia
- 6 NSW Farmers
- 7 Australian Duck Meat Association
- 8 GrainGrowers
- 9 Freight & Trade Alliance and the Australian Peak Shippers Association
- 10 Canned Fruit Industry Council of Australia
- 11 Australian Barramundi Farmers' Association
- 12 National Farmers' Federation
- 13 Australian Honey Bee Industry Council
- 14 Australian Dairy Farmers
- 15 Livestock SA
- 16 AgForce Queensland Farmers
  - Attachment 1
- 17 National Farmers' Federation Horticulture Council
- 18 Almond Board of Australia
- 19 Oysters Tasmania
- 20 Seafood Industry Australia
- 21 Australian Seed Federation
- 22 Australian Banana Growers' Council
- 23 Australian Prawn Farmers Association
- 24 Greenlife Industry Australia
- 25 Cattle Australia
- 26 Australian Livestock & Property Agents Association
- 27 National Council of Wool Selling Brokers of Australia
- 28 Fishing Families Western Australia
- 29 Grain Trade Australia
- 30 Queensland Fruit & Vegetable Growers
- 31 Australian Chicken Meat Federation
- 32 Abalone Council Victoria
- 33 Australian Horse Industry Council
- 34 Western Australian Farmers Federation
- 35 Australian Chicken Growers' Council
- 36 Humpty Doo Barramundi

- 37 Department of Agriculture, Fisheries and Forestry
- 38 Australian Fresh Produce Alliance
  - Attachment 1
- 39 Mr Trevor Ranford
- 40 Australian Nut Industry Council
- 41 Summerfruit Australia
- 42 Chestnuts Australia
- 43 Australian Walnut Industry Association
- 44 Hazelnut Growers of Australia
- 45 Mr Luciano Cester
- 46 Australian Grape & Wine Inc
- 47 Australian Mushroom Growers' Association
- 48 Australian Forest Products Association
- 49 Queensland Cane Growers Organisation
- 50 Egg Farmers of Australia
- 51 Berries Australia
- 52 Red Meat Advisory Council
- 53 Melons Australia
- 54 Sheep Producers Australia
- 55 Australian Macadamia Society
- 56 Plant Industry Forum
- 57 Grain Producers Australia
  - Attachment 1
  - Attachment 2
  - Attachment 3
  - Attachment 4
  - Attachment 5
  - Attachment 6
  - Attachment 7
  - Attachment 8
  - Attachment 9
  - Attachment 10
  - Attachment 11
  - Attachment 12
  - Attachment 13
  - Attachment 14
  - Attachment 15
- 58 Invasive Species Council
  - Attachment 1
- 59 Ms Madonna Waugh
- 60 Plant Health Australia



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### **Additional Information**

- 1 Additional information provided by Mr Michael Coote, Chief Executive Officer, AUSVEG, dated 30 April 2024
- 2 Letter from Department of Agriculture, Fisheries and Forestry, correcting evidence given to the committee on 23 April 2024, dated 2 May 2024

### **Answer to Questions on Notice**

- 1 Grain Producers Australia, answers to questions taken on notice at the public hearing on 23 April 2024, received 1 May 2024.
- 2 National Farmers Federation, answers to questions taken on notice at the public hearing on 23 April 2024, received 3 May 2024.
- 3 Department of Agriculture, Fisheries and Forestry, answers to questions taken on notice from Senator Ciccone, received 2 May 2024.
- 4 Department of Agriculture, Fisheries and Forestry, answers to questions taken on notice from Senator Canavan, received 2 May 2024.
- 5 Department of Agriculture, Fisheries and Forestry, answers to questions taken on notice from Senator Whish-Wilson, received 2 May 2024.
- 6 Department of Agriculture, Fisheries and Forestry, answers to questions taken on notice from Senator Pocock, received 3 May 2024.
- 7 NSW Farmers, answers to questions taken on notice at the public hearing on 23 April 2024, received 6 May 2024.
- 8 Australian Prawn Farmers Association, answers to questions taken on notice at the public hearing on 23 April 2024, received 1 May 2024.
- 9 Seafood Industry Australia, answers to questions taken on notice at the public hearing on 23 April 2024, received 3 May 2024.

### **Tabled Documents**

- 1 GrainGrowers opening statement, tabled by Zachary Whale - General Manager Policy and Advocacy, public hearing in Canberra 23 April 2024.
- 2 Grain Producers Australia, opening statement, tabled by Mr Colin Bettles, Chief Executive, public hearing in Canberra 23 April 2024.
- 3 Red Meat Advisory Council, table by Mr Alastair James, Chief Executive Officer, public hearing in Canberra 23 April 2024.
- 4 Australian Dairy Farmers opening statement, tabled by Justin Toohey, Advisor – Animal Health, Welfare and Bio-security, public hearing in Canberra 23 April 2024.
- 5 The Invasive Species Council opening statement, tabled by Mr Jack Gough, Advocacy Manager, public hearing in Canberra 23 April 2024.
- 6 WoolProducers Australia opening statement, tabled by Ms Jo Hall, Chief Executive Officer, public hearing in Canberra 23 April 2024.
- 7 NSW Farmers opening statement, tabled by Mr Xavier Martin, President, public hearing in Canberra 23 April 2024.
- 8 National Farmers' Federation opening statement, tabled by Tony Mahar, Chief Executive Officer, public hearing in Canberra 23 April 2024.

- 9 Berries Australia opening statement, tabled by Ms Rachel Mackenzie, Executive Director, public hearing in Canberra 23 April 2024.
- 10 AUSVEG opening statement, tabled by Ms Lucy Gregg, General Manager Public Affairs, public hearing in Canberra 23 April 2024.

# Appendix 2

## Public hearing and witnesses

*Tuesday, 23 April 2024*

Committee Room 2S1

Parliament House

Canberra

### *GrainGrowers*

- Mr Zachary Whale, General Manager, Policy and Advocacy (via videoconference)

### *Grain Producers Australia*

- Mr Colin Bettles, Chief Executive (via videoconference)

### *Cattle Australia*

- Dr Chris Parker, Chief Executive Officer (via videoconference)

### *Red Meat Advisory Council*

- Mr Alastair James, Chief Executive Officer (via videoconference)
- Mr Scott Kompo-Harms, Deputy Chief Executive Officer, Australian Livestock Exporters' Council (via videoconference)
- Ms Bonnie Skinner, Chief Executive Officer, Sheep Producers Australia (via videoconference)
- Mr Christian Mulders, Chief Executive Officer, Australian Lot Feeders' Association (via videoconference)

### *Australian Dairy Farmers*

- Mr Justin Toohey, Advisor - Animal Health, Welfare and Biosecurity (via videoconference)

### *The Invasive Species Council*

- Mr Jack Gough, Advocacy Manager (via videoconference)
- Mr Lyall Grieve, Conservation and Biosecurity Analyst (via videoconference)

### *The Invasive Species Council*

- Mr Lyall Grieve, Conservation and Biosecurity Analyst (via videoconference)

### *AgForce Queensland Farmers*

- Mrs Belinda Callanan, Chair, Biosecurity Committee (via videoconference)
- Dr Annie Rutledge, Senior Policy Advisor (via videoconference)

*WoolProducers Australia*

- Ms Jo Hall, Chief Executive Officer (via videoconference)

*NSW Farmers*

- Mr Xavier Martin, President (via videoconference)
- Mr Ashley Cooper, Policy Director, Agricultural Industries (via videoconference)

*National Farmers' Federation*

- Mr Tony Mahar, Chief Executive Officer (via videoconference)
- Ms Charlotte Wundersitz, General Manager, Rural Affairs (via videoconference)

*Seafood Industry Australia*

- Ms Veronica Papacosta, Chief Executive Officer (via videoconference)
- Ms Julie Petty, General Manager, Project and Policy (via videoconference)

*Australian Prawn Farmers Association*

- Mrs Kim Hooper, Chief Executive Officer (via videoconference)

*Australian Honey Bee Industry Council*

- Mr Danny Le Feuvre, Chief Executive Officer (via videoconference)

*Berries Australia*

- Ms Rachel Mackenzie, Executive Director (via videoconference)

*AUSVEG*

- Ms Lucy Gregg, General Manager, Public Affairs (via videoconference)
- Ms Lucy Gregg, General Manager Public Affairs (Via videoconference)

*National Farmers' Federation Horticulture Council*

- Mr Richard Shannon, Executive Officer (via videoconference)

*Department of Agriculture, Fisheries and Forestry*

- Ms Justine Saunders, Deputy Secretary, Biosecurity and Compliance Group (via videoconference)
- Mrs Bronwen Jagers, First Assistant Secretary, Biosecurity Strategy and Reform Division (via videoconference)
- Ms Cassandra Ireland, General Counsel, Legislation and Training Legal Practice, Legal Division (via videoconference)
- Ms Sophia Farmakis, Assistant Secretary, Financial Operations Branch, Finance and Investment Division (via videoconference)
- Mr Chris Toyne, A/g Assistant Secretary, Farm Performance, Biosecurity Information (via videoconference)