



9 April 2024

Committee Secretary
Senate Standing Committees on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600

Via: rrat.sen@aph.gov.au

Re: Senate Standing Committees on Rural and Regional Affairs and Transport inquiry into Agriculture (Biosecurity Protection) Levies Bill 2024 [Provisions] and related bills

Thank you for the opportunity to contribute to the inquiry into the Agriculture (Biosecurity Protection) Levies Bill 2024 [Provisions], the Agriculture (Biosecurity Protection) Charges Bill 2024 [Provisions] and the Agriculture (Biosecurity Protection) Levies and Charges Collection Bill 2024 [Provisions].

GrainGrowers has been actively engaged in consultation related to this measure. GrainGrowers has been calling for sustainable funding for biosecurity, along with a reset of the operation of Australia's biosecurity system to ensure it can match modern biosecurity threats. The focus of GrainGrowers engagement in this process has been on improving transparency and accountability associated with the proposed levy, along with the need for improvement in biosecurity outcomes.

In our submission to this inquiry GrainGrowers outlines concerns with the design and development of the measure, and highlights areas to be addressed in the proposed legislation to improve outcomes. These include:

- *The proposed legislation must have a formal review established in its enabling legislation. At this review point there needs to be i) demonstrated improvements in biosecurity outcomes for the Australian grains industry for the measure to continue, ii) evidence that the confidence in the existing industry levy system has not been undermined and iii) an assessment of the regulatory costs and efficiency of the mechanism.*
- *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.*
- *Income from the levy for each commodity must be reported and clearly distinguished by the Department in its reporting documents and on its website, including over and under collection.*
- *If the proposed legislation proceeds a formal mechanism should be included to establish the Sustainable Biosecurity Funding Advisory Panel, or similar advisory group, to ensure there is ongoing financial accountability, transparency and performance reporting of the biosecurity system function to industries that pay the Biosecurity Protection Levy.*

- *To provide clarity to industries the legislation should clearly set out a mechanism to benchmark the total revenue that the proposed Biosecurity Protection Levy is designed to collect, along with the method as to how the levies would be calculated in accompanying regulation.*

As indicated, concerns exist with the levy design and its implementation. GrainGrowers believes that the implications of this legislation and its impact on agricultural industries need to be better understood prior to implementation.

Background

Biosecurity is of critical importance to the grains industry and Australian agriculture more broadly. GrainGrowers supports the concept of shared responsibility for biosecurity, and that industry, community and government all have their role to play in supporting better biosecurity outcomes for Australia. Australian grain growers make significant financial contributions to biosecurity, through investment in research and development, support for Plant Health Australia, contributions to emergency plant pest responses, as taxpayers and in the everyday operations of their farm enterprises. This commitment and contribution to biosecurity by growers cannot be understated, it is fundamental to the productivity of our industry and continued access to our export markets.

GrainGrowers has focussed its engagement in the development of the proposed Biosecurity Protection Levy on the basis of the following:

- That the Government investigate and implement a container levy, or similar risk creator levy, to fund biosecurity activities provided it does not jeopardise Australia's trade position.
- That clear information on the value of the proposed biosecurity protection levy charges for the various industries is provided, as well as a mechanism to ensure the levy would be implemented equitably across all industries, including industries that currently do not pay agricultural levies.
- That there is transparency and accountability in the way funds are collected and spent in relation to the biosecurity protection levy (this includes clear annual reporting).
- That there is a demonstrated improvement (and a clear value proposition) in biosecurity outcomes for growers as a result of the changes to the funding model and the collection of a biosecurity protection levy.

Whilst reassurances have been sought from government on the issues highlighted above serious questions remain. If the legislation is to be implemented, further protections need to be provided to strengthen and improve outcomes and address the issues that GrainGrowers has continued to raise.

Concerns with design and development of the measure

GrainGrowers has concerns with the premise of the measure, it being a levy on beneficiaries rather than risk creators, as well as the process that has been gone through to design and develop the measure. 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. 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.

Compared to a charge on risk creators the proposed Biosecurity Protection Levy is an inefficient charge on beneficiaries that does not incentivise net beneficial investment decisions. When the Department of Agriculture, Fisheries and Forestry (DAFF) announced a review of funding options in a call for submissions in late 2022 the discussion paper¹ noted that funding options previously identified had included revenue sourced from beneficiaries of the biosecurity system but gave no indication that such a model was being considered, or that agriculture had been singled out as a beneficiary that gained significant advantage. By not providing a clear context and policy proposal to respond to industry stakeholders were put at a disadvantage, and GrainGrowers response² to the consultation focussed on broader issues related to biosecurity funding.

The proposed Biosecurity Protection Levy was subsequently developed with limited industry engagement or external discussion, and the Office of Impact Analysis' assessment of the proposal^{3,4} raised questions regarding analysis of costs, justification of costings, and qualitative impacts as well as questioning the consultation and agreement and disagreement on the options. It is extremely disappointing that these questions were not responded to, as they have continued to be raised by industry in subsequent consultation and remain serious concerns. The development of good policy relies on open engagement by government with stakeholders, and that there is transparency in policy development to ensure stakeholders have confidence in the process and that policy options have been fully considered.

The validity of the proposed Biosecurity Protection Levy as an effective mechanism for funding biosecurity was questioned by Productivity Commission, the government's own independent source of advice and research on economic, social and environmental issues. The December 2023 research paper 'Towards Levyathan?'⁵ highlighted the use of industry levies as a growing form of micro-taxation in Australia, and that implementation of industry levies to raise revenue conflicts with good tax system design by increasing complexity, inefficiency and inequity. The report notes the lack of frameworks to properly assess the merits of these levy proposals, and our industry's experience with the development of the Biosecurity Protection Levy bears these concerns out. Analysis of the proposed Biosecurity Protection Levy by the Productivity Commission (Appendix F⁶ to the report) highlights a significant number of 'warning signs' that suggest the cost of the levy outweighs the potential benefits, some of these 'warning signs' include that:

- The policy fails to recognise the multiple beneficiaries of biosecurity activities
- In the absence of appropriate design free riders will exist
- Without clarity on the use of the levy funds the sectoral public good is unknown
- There is a lack of widespread industry support

The Productivity Commission analysis suggests that it is likely that it would be cheaper to fund the measure through general revenue rather than an industry levy. The questions raised in the Productivity Commission report and analysis highlight fundamental flaws in the design and value proposition of the levy and serves to highlight the lack of scrutiny and review that has accompanied the development of the proposed Biosecurity Protection Levy. Without a fundamental redesign of the proposed measure these flaws will remain and serve as an ongoing source of frustration for our industry and is likely to continue to attract criticism.

¹ Sustainable funding and investment to strengthen biosecurity: discussion paper (amazonaws.com)

² Microsoft Word - GrainGrowers response to Sustainable Biosecurity Funding 28Nov22 (amazonaws.com)

³ Biosecurity sustainable funding submission | The Office of Impact Analysis (pmc.gov.au)

⁴ OIA Assessment 2.pdf (pmc.gov.au)

⁵ Towards Levyathan? Industry levies in Australia - Productivity Commission (pc.gov.au)

⁶ Appendices - Towards Levyathan? Industry levies in Australia (pc.gov.au)

As an alternative funding mechanism to the proposed Biosecurity Protection Levy GrainGrowers has continued to call for answers on the establishment of a container levy, or similar risk creator levy, as proposed by the 2017 independent review of the Intergovernmental Agreement on Biosecurity⁷ (the 'Craik Review'). The Frontier Economics report on Sustainable Funding for Biosecurity⁸ published in May 2023 highlights the efficiency, equitability and simplicity of this mechanism, which contrasts with the complexity of implementing a beneficiary pays mechanism. A significant weakness of a beneficiaries pays mechanisms, such as the Biosecurity Protection Levy, is that it fails to provide any market signals to those creating biosecurity risks making it a relatively inefficient mechanism for reducing biosecurity risks. GrainGrowers has continued to seek a resolution to this issue and asks that clear advice be provided to industries on this matter.

Addressing flaws and shortcomings of the proposed measure

As highlighted previously, if implemented as proposed, the flaws in the design and development of the proposed Biosecurity Protection Levy will remain and serve as an ongoing source of frustration for agricultural industries. In its response to the initial proposal the Office of Impact Assessment⁹ indicated that the proposed Biosecurity Protection Levy should have a formal levy review established in the enabling legislation to ensure that there is an opportunity to revisit regulatory costs. GrainGrowers believes that to address industry concerns the scope of a review of this measure should be expanded to consider the effectiveness of the measure, including the extent to which it has impacted industry confidence and engagement in existing industry levy funded programs, as well as the benefits delivered through the biosecurity funding mechanism.

GrainGrowers believes that there is an additional risk that the proposed Biosecurity Protection Levy will undermine industry goodwill and confidence in existing industry levy arrangements used to fund important industry good activities including research and development (through the Grains Research and Development Corporation), biosecurity preparedness and response activities (through Plant Health Australia) as well as residue surveys (the National Residue Survey program). These impacts have not been properly considered or assessed through the consultation process.

- *The proposed legislation must have a formal review established in its enabling legislation. At this review point there needs to be i) demonstrated improvements in biosecurity outcomes for the Australian grains industry for the measure to continue, ii) evidence that the confidence in the existing industry levy system has not been undermined and iii) an assessment of the regulatory costs and efficiency of the mechanism.*

Throughout the consultation and submission process GrainGrowers has highlighted that mechanisms need to be put in place to significantly improve transparency and accountability around the collection and use of the funds. It is important that the proposed biosecurity protection levy is differentiated on grower invoices from existing industry levies which have been agreed to by industry. Differentiating the proposed biosecurity protection levy on invoices would help to avoid undermining industry confidence in the existing industry levy system and ensure there is transparency in the charge. 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

⁷ [Priorities for Australia's biosecurity system – An independent review of the capacity of the national biosecurity system and its underpinning Intergovernmental Agreement \(agriculture.gov.au\)](#)

⁸ [2023-05-02-Assessment-of-biodiversity-funding-mechanisms.pdf \(invasives.org.au\)](#)

⁹ [OIA Assessment 2.pdf \(pmc.gov.au\)](#)

industry to ensure there is transparency, along with the administrative costs of collection and compliance associated with the levy.

- *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.*
- *Income from the levy for each commodity must be reported and clearly distinguished by the Department in its reporting documents and on its website, including over and under collection.*

In recent weeks the Government has announced the establishment of the Sustainable Biosecurity Funding Advisory Panel¹⁰, to allow “the government to meet regularly with those who have a stake in Australia's strong biosecurity system”. A cornerstone of Australia's approach to biosecurity, set out in the National Biosecurity Strategy¹¹, is a shared culture of biosecurity and the development of a partnership approach. It is important that a forum, such as the proposed Advisory Panel, reflects the intent of the National Biosecurity Strategy and focuses on a shared responsibility for biosecurity. The opportunity to work more closely with government on biosecurity priorities is welcomed, and the establishment of an Advisory Panel to forge closer links with industry should occur irrespective of the Agriculture (Biosecurity Protection) Levies Bill 2024 [Provisions] and related bills being passed into legislation.

Considerable frustration exists amongst industry that the levies collected under the proposed legislation will be paid into consolidated revenue rather than being directed specifically to biosecurity activities, and the lack of industry involvement in setting priorities for investment. The Sustainable Biosecurity Funding Advisory Panel represents an independent mechanism to provide direct accountability for the collection of the levy, transparency to agricultural industry members regarding biosecurity funding and performance of the Department's biosecurity function. However, in order to provide transparency and accountability in relation to the proposed Biosecurity Protection Levy the Panel must have longevity and a clear link to the implementation of the measure. Without an ongoing mechanism for accountability there is a significant risk that the levy would become a revenue stream with no accountability and link back to its purpose.

- *If the proposed legislation proceeds a formal mechanism should be included to establish the Sustainable Biosecurity Funding Advisory Panel, or similar advisory group, to ensure there is ongoing financial accountability, transparency and performance reporting of the biosecurity system function to industries that pay the Biosecurity Protection Levy.*

The Regulation to accompany the Agriculture (Biosecurity Protection) Levies Bill 2024 [Provisions] and related bills is intended to establish much of the detail on levy rates, including the way that levies are set and applied. During the development of the proposed Biosecurity Protection Levy the basis for calculating the levy rates has changed substantially. The lack of detail and clarity related to levy rates is continues to cause a great deal of uncertainty and frustration for industries. This issue is further discussed below as part of implementation.

There are no clear policy guidelines that relate to how the total budget proposed to be collected under the levy is set, which in turn determines the value of the levy to be collected from individual industries. In the absence of clear guidelines for setting a cap on the total levy collected there is a significant risk of creep in the value collected under the Biosecurity

¹⁰ [Sustainable biosecurity funding - DAFF \(agriculture.gov.au\)](https://www.daff.gov.au/biosecurity/funding)

¹¹ [National Biosecurity Strategy](#)

Protection Levy over time, leading to Australia's biosecurity system becoming increasingly subsidised by the agricultural sector.

Uncertainty over revenue to be raised through the proposed Biosecurity Protection Levy

Initially it was indicated that the Biosecurity Protection Levy would be targeted to collect revenue which was "... an amount equivalent to 10 per cent of 2020-21 levy rates or another comparable metric where such levies are not in place."^{12,13} Whilst the Department's website indicates the levy is designed to collect "around \$50m per year"¹⁴ our understanding is that the Levy is budgeted to collect in the order of \$51.8m p.a., however this has not been clearly articulated. The total amount to be collected has not been linked to the cost of biosecurity system, or the delivery of biosecurity services to agriculture, and there has been no indication as to if or how it may be indexed or change over time. The Explanatory Memorandum to the Collection Bill (p.1) currently states that "The BPL will generate revenue to contribute around six per cent of the costs of sustainably funded biosecurity system"¹⁵, however it is not clear what the "sustainably funded biosecurity system" budget represents and the extent to which this includes broader Departmental overheads and cost recovered inspection services that may fluctuate or change over time.

- *To provide clarity to industries the legislation should clearly set out a mechanism to benchmark the total revenue that the proposed Biosecurity Protection Levy is designed to collect, along with the method as to how the levies would be calculated in accompanying regulation.*

Concerns regarding implementation

As indicated earlier, considerable uncertainty exists 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. In the absence of this detail it is not clear what the impact will be for agricultural industries. It is disappointing that these measures are being introduced without fully exploring alternative measures including the appropriateness of an alternative container levy, or similar risk creator levy.

The detail of the accompanying Regulation is unknown, including the extent to which there may be exemptions from payment. If exemptions from the levy can occur then the measure lacks equitability, leading to some individuals or industries being relatively advantaged compared to others and increasing the risk of free riders. The potential for inequity and arbitrary exemptions highlights issues with poor design of the measure, as raised in the Productivity Commission research paper 'Towards Levyathan?'.¹⁶

The framework for enforcing compliance with the levy and charges has not been discussed, and the cost of the compliance function for this levy to the Department of Agriculture, Fisheries and Forestry has not been explored. Experiences with other parts of government undertaking compliance activities to recover debts has highlighted the difficulties this can cause individuals, but also the importance of having clear frameworks and processes in place to manage this activity to ensure consistency and transparency.

The speed at which the measure has been developed, including relatively recent changes to improve equitability and base the levy on GVP of an industry¹⁶, has left concerns that

¹² [Budget 2023-24 - Sustainable funding for a strong biosecurity system \(agriculture.gov.au\)](#)

¹³ [Introduction of the Biosecurity Protection Levy: Consultation paper \(amazonaws.com\)](#)

¹⁴ [Biosecurity Protection Levy | Have Your Say - Agriculture, Fisheries and Forestry](#)

¹⁵ [JC012301.pdf;fileType=application/pdf \(aph.gov.au\)](#)

¹⁶ [BPL Public Consultation Paper - Feb 2024.pdf \(agriculture.gov.au\)](#)

implementation by the 1 July 2024 date is an unrealistic timeframe. To ensure equitability it is important that the levies and charges associated with this legislation are implemented at a consistent date across industries. Implementation should be delayed until there is the capacity to implement it consistently across industries, and there are clear guidelines to explain its operation.

Conclusion

As highlighted earlier in our submission, GrainGrowers supports the concept of shared responsibility for biosecurity, and that industry, community and government all have their role to play in supporting better biosecurity outcomes for Australia. GrainGrowers has been actively engaged in consultation related to this measure, and the need to ensure that Australia's biosecurity system is better positioned to meet modern biosecurity threats. GrainGrowers would welcome the opportunity to discuss these issues further with you. If you have any specific questions regarding the points raised, please contact our Technical Policy Manager Sam Nelson via

Yours sincerely,

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