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Committee Secretary
Senate Standing Committee on Rural and Regional Affairs and Transport
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Dear Committee Members

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

Australian Dairy Farmers (ADF) welcomes this opportunity to provide the Rural and Regional Affairs and Transport Legislation Committee with its position on the above-mentioned Bill and related documents.

As the national representative body for dairy farmers across the six dairying States, ADF's mission is to improve the productivity and sustainability of dairy farmers in Australia. Critical to this mission is the widespread acceptance across the sector of farmers' and service operators' role in adhering to strong biosecurity practices aimed at protecting the Australian dairy herd from pests, weeds and diseases likely to have a detrimental impact on the health and wellbeing of dairy animals and operations.

While it may sound contrary to this mission, ADF continues to oppose this Bill and related documents in their current form. It does so for the reasons outlined in the attached submission.

One important issue for ADF is the unintended removal from the dairy sector of any capacity in the short to medium term for raising its own funds for purposes specific to improving on-farm biosecurity awareness and practices that ADF has identified as wanting.

At the time of the Minister's announcement in May 2023 regarding the introduction of this proposed new charge – an announcement that was made without any industry consultation or engagement – the dairy sector was preparing a strong case in favour of having the Emergency Response Levy, currently set at zero, increased to allow a flow of funds for industry-specific programs; it was being proposed these funds would be held by Animal Health Australia with programs and expenditure overseen by dairy farmers themselves, via ADF.



The Biosecurity Protection Levy has stymied this. It is designed to collect a similar level of funds but without dairy sector oversight or any say in related expenditure; as such, it robs ADF of any opportunity to put its case to farmers for the sector's own biosecurity levy. (It would be unwise and unfair of ADF to ask farmers for an additional contribution to biosecurity at this stage.)

An obvious solution to this dilemma would be for the Government to hypothecate a portion of the funds for industry use – via Animal Health Australia – on much needed on-farm and supply-chain biosecurity preparedness measures. This would allow the weakest link in the biosecurity chain to be strengthened and would truly reflect the 'shared responsibility' with which this country must approach biosecurity.

Other matters of importance are covered in the attached submission. ADF requests the Committee to give it due consideration.

Yours sincerely

Ben Bennett
President

Att: ADF submission



Submission to the Senate Rural and Regional Affairs and Transport Legislation Committee's Inquiry into the Agriculture (Biosecurity Protection) Levies Bill 2024 [Provisions] and related bills

10 April 2024

Australian Dairy Farmers (ADF) has noted the Federal Government's efforts to consult on the introduction of its proposed Biosecurity Protection Levy (BPL); however, ADF has also noted such consultation occurred after the Government's proposed levy was announced unexpectedly as part of its May 2023 Budget measures; consultation that did ensue was, in ADF's view, aimed more at the Government's honing of minor details rather than enlisting industry's support for the concept from the outset.

ADF is the recognised national peak industry representative body for dairy farmers from all dairy producing States of Australia. As such, ADF has a significant interest in, and a right to be consulted on, a new charge that will impact dairy farmers' businesses. ADF provided its submission via the Department of Agriculture, Fisheries and Forestry 'Have Your Say' portal on 13 October 2023, knowing it to be largely a futile attempt at forcing substantial change, let alone having the concept scrapped, being ADF's primary objective.

Many of the arguments put to DAFF remain relevant and are discussed below for the Committee's consideration.

Of particular interest to the Committee—and undoubtedly raised by other submitters—must be the recent analyses of the proposed BPL by two independent bodies: the Productivity Commission in its paper, *Towards Levyathathan? Industry levies in Australia*¹ and the Australian National University's Tax and Transfer Policy Institute in its paper, *The Biosecurity Protection Levy: Principles for design*²; both

¹ <https://www.pc.gov.au/research/completed/industry-levies>

² https://taxpolicy.crawford.anu.edu.au/sites/default/files/uploads/taxstudies_crawford_anu_edu_au/2024-02/final_pb_breunig_vanek_feb_2024.pdf



raised serious concerns around the policy construct, while the latter suggested more equitable approaches for the Government to satisfy its stated need for additional biosecurity funding.

EXECUTIVE SUMMARY – RECOMMENDATIONS

ADF opposes the 'levy' in its current form. If it were to proceed, ADF's position is as follows:

1. In proposing a new agricultural "levy", Government should adhere to its own procedural guidelines as set out in its own document, *Levy guidelines – How to establish or amend agricultural levies*.
2. A portion of the funds be hypothecated for industry use, via Animal Health Australia and consistent with Government requirements, on much needed on-farm and supply-chain biosecurity preparedness measures.
3. A regulatory impact assessment be conducted to ensure ample opportunity for full and frank consultation and for all consequences from the new charge to be identified and addressed.
4. There be a sunset clause of three years included in the legislation/regulation; any extension of the charge beyond the sunset date to be by agreement of all parties.
5. Assurance be incorporated in the legislation that prevents the charge from being 'ratcheted up' unilaterally by future Governments.
6. The Government be required to finalise a system that is less focused on levying beneficiaries (who are already contributing a significant share of biosecurity costs) and more on risk-creating importers (who have indicated their conditional willingness to pay).



BACKGROUND: GOVERNMENT PROPOSAL

The proposed new 'charge' was announced by the Australian Government as part of its May 2023 Budget provisions. It is intended to be placed on Australian producers of agricultural, forestry and fishery products from 1 July 2024, initially planned to be at a rate equivalent to 10 per cent of the 2020–21 industry-led agricultural levies but later amended to reflect fluctuations in each contributing sector's gross value of production.

This cost recovery measure is intended to pay for some of the government's ongoing investment in pre-border and border biosecurity into the future.

The Government has proposed that the funds will be spent on the following programs:

- The maintenance of biosecurity policy, operational and technical functions on a sustainable basis, including regulation, surveillance, domestic preparedness and response, and international engagement and capability development.
- The delivery of modern digital systems in cargo pathways that are integrated with business systems, cut red tape, and streamline regulation and service delivery for importers.
- The continuation of the Indigenous Ranger Biosecurity Program to reduce biosecurity risks in Northern Australia and provide social and economic benefits to First Nations, rural and remote communities.

INCREASED BIOSECURITY INVESTMENT – INITIAL ADF SUPPORT

ADF has been advocating for increased investment and sustainable funding for biosecurity for a considerable time. In its December 2021 federal election policy statement, ADF requested an incoming government to "maintain strong border controls and program funding for biosecurity". The core deliverable to achieve this objective is for biosecurity funding to be set at or above 2016-17 levels in real terms, as recommended by the 2017 Craik Review of the Intergovernmental Agreement on Biosecurity³.

In August 2022 ADF provided more detail on how it considered these funds should be spent to the Senate Standing Committees on Rural and Regional Affairs and Transport as part of its *Inquiry into the adequacy of Australia's biosecurity measures and response preparedness, in particular with respect to*

³ Craik, Palmer & Sheldrake (2017), *Priorities for Australia's biosecurity system*



foot-and-mouth disease. ADF said, “the Committee should endorse the Australian Government’s *National Biosecurity Strategy* as a framework for transformational change to our biosecurity system. Significant reforms to governance, funding, disease categorisation, surveillance and detection, diagnostics and vaccine development, compliance and continuous improvement are required to ensure we have a world-class biosecurity system.”

Since the Government’s May 2023 announcement, detail has been provided regarding the proposed BPL; this detail has given ADF cause for concern and, eventually, opposition, even with the latest amendments.

REASONS FOR ADF’s OPPOSITION

1. Failure to adhere to Commonwealth Guidelines

Government has failed to adhere to its own procedural guidelines: *Levy guidelines – How to establish or amend agricultural levies* (*‘Levy Guidelines’*). These *Levy Guidelines* set-out the principles to establish a new levy on (agricultural) goods under the now Department of Agriculture, Fisheries and Forestry (DAFF).

Contrary to the principles outlined in the *Levy Guidelines*, Government has yet to:

- attract widespread industry support;
- if arguably raised in the ‘public interest’, demonstrate reasons why a new industry levy should be imposed despite industry objections;
- demonstrate it is equitable;
- provide a clear plan for how the moneys raised will be utilised;
- indicate clearly how it will be accountable to levy payers; and
- demonstrate the benefits of this expenditure for levy payers.

2. ‘Multiple dipping’ – Only cursory recognition of industry’s existing contributions to biosecurity

Government has acknowledged the agricultural sector’s existing contributions to biosecurity, which are summarised below.

- a) The dairy sector, through ADF, is one of the inaugural signatories to the *Emergency Animal Disease Response Agreement* (EADRA) and is thus committed to funding a substantial proportion



of costs associated with responses to emergency disease incursions affecting the dairy sector. It is likely such funding would occur ex post in the form of moneys repaid to the Commonwealth Government via the lifting from 'zero' of the currently legislated Emergency Response Levy⁴.

- b) The dairy sector pays levies of more than \$30m per annum to Dairy Australia for research and development, some of which comprises industry-related biosecurity initiatives.
- c) Dairy levies equating to approximately \$6-700,000 per annum are directed to Animal Health Australia, the programs of which predominantly have a biosecurity focus.
- d) Farmers themselves are maintaining constant on-farm surveillance for, and responses to, incursions of pests, weeds and diseases affecting their operations.
- e) Overlaying these contributions, dairy farmers are taxpayers and consumers, and so already contribute to the Federal Government's biosecurity-related expenses.

After providing this acknowledgement, the Government states, "While these investments are important, they do not directly fund biosecurity costs at the border that prevent pest and disease incursions into Australia."⁵ ADF objects to the notion of producers, who themselves are taxpayers and therefore contributors to border security, being asked to pay additional money for what is essentially a Government (i.e., taxpayer) responsibility.

3. Absence of Regulatory Impact Assessment

With strong support from the Productivity Commission, Regulatory Impact Assessments (RIAs) have for some decades been seen by governments around Australia as an essential part of the consultation and assessment process towards implementing new legislation/regulation expected to impact segments of society and business.

ADF has on file examples of where State governments have conducted RIAs as important steps in assessing changes in regulations that would affect only the cattle sectors. By comparing these examples

⁴ [https://www.agriculture.gov.au/agriculture-land/farm-food-drought/levies/biosecurity-levies#:~:text=Generally%20set%20at%20zero%20\(%24,by%20industry%20members%20of%20PHA.](https://www.agriculture.gov.au/agriculture-land/farm-food-drought/levies/biosecurity-levies#:~:text=Generally%20set%20at%20zero%20(%24,by%20industry%20members%20of%20PHA.)

⁵ <https://www.agriculture.gov.au/sites/default/files/documents/Biosecurity%20Protection%20Levy%20design%20fact%20sheet%20-%20February%202024.pdf>



with the proposed new charge that will affect the entire agricultural sector, it is evident an RIA is warranted, yet it seems not even to have been considered.

ADF requests an IRA (complete with full industry consultation) be conducted *before* further progress is made to have a mechanism in place by 1 July 2024.

4. Lack of transparency & consultation

Departmental officers assured industry that, by way of a 'first' for Government, transparency will be afforded industry through annual reporting post the event as to how moneys collected from the new charge were spent. ADF considers this totally inadequate.

If this new charge is implemented, ADF requests, at the very least, industry is consulted as to proposed expenditure *in advance* of the event, preferably through membership of the proposed Biosecurity Advisory Panel.

Such involvement of industry is more consistent with the *Levy Guidelines* and the often-cited concept of 'shared responsibility'.

5. Consolidated revenue versus hypothecation

The Government will be taking moneys from food-producing businesses on the grounds that it will be spent on biosecurity initiatives of benefit to the funders, yet ADF has been told the moneys will not be hypothecated, will be funnelled into consolidated revenue, and will be used partly to offset the deficit funding of DAFF.

There is 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.

ADF requests Government to hypothecate a portion of the funds for industry use – via Animal Health Australia – on much needed on-farm and supply-chain biosecurity preparedness measures.

Returning, say, 30% of the funds collected under the BPL to industry for industry use against Government-determined criteria would, in ADF's view, comprehensively dissipate any opposition to the BPL and would result in strengthening of existing post-border biosecurity weaknesses that will be missed if the BPL were to proceed in its current form. (See further discussion under 6 below.)



This would empower industry to form a true partnership with governments in their maximising of biosecurity preparedness throughout the country, from pre-border to farm gate and beyond.

6. Undermining post-border, on-farm & supply-chain biosecurity initiatives

One of the greatest areas of need for increased agricultural biosecurity and food security is the funding required to improve on-farm and food supply-chain biosecurity preparedness.

Prior to the May 2023 Budget announcement, ADF was undertaking groundwork, including discussion with DAFF, to enable it to propose to dairy farmers the striking of a 'biosecurity levy', the moneys from which would be held by AHA and spent, under ADF guidance, on post-border, on-farm and supply-chain biosecurity improvements that are sorely needed.

Notwithstanding the requirement for ADF to satisfy the Government's *Levy Guidelines*, this appeared entirely achievable and would have reflected ADF's obligations as a signatory to the EADRA. The amount being considered would have equated to between five and 10 per cent of the existing Milk Production Levy.

The Government's announced BPL – coincidentally for a similar amount – completely quashed any notion of ADF's initiative, effectively undermining ADF's plans for on-farm and supply-chain biosecurity improvements.

ADF is particularly aggrieved by this. Not only has ADF lost any chance of introducing such an initiative, but the dairy sector is being told it will have no say in how the moneys from the new charge will be spent.

To reiterate comments made above, if the Government's proposed charge is implemented, ADF requests that a portion of the funds be hypothecated for industry use on much needed on-farm and supply-chain biosecurity preparedness measures and that ADF has a say over how this money is spent, albeit consistent with criteria set by the Government.

7. Risk creators not being recognised sufficiently

ADF acknowledges the Government's intention to increase the levies covering incoming passengers, which ADF supports.

An important recommendation from the Craik Review was for there to be a 'container levy' in recognition of the biosecurity risks posed by the 46,000 high-risk-pathway sea containers and 640,000 incoming



air containers: "...[implement] a per-container levy on incoming shipping containers of \$10 per twenty-foot equivalent unit and a levy of \$5 on incoming air containers, effective from 1 July 2019"

(Recommendation 34)⁶. This was attempted by Government but reportedly found to be too hard and was shelved. Industry continues to ask for this to be corrected such that some form of levy be applied to importers, many of whom have, through personal communications, indicated their willingness to meet such a responsibility.

To quote from the TTPI study, "The decision to levy primary producers, a narrow section of the community, could be explained by wanting to limit opposition to raising biosecurity funds (PC 2023), rather than a 'shared responsibility' model (DAFF 2023). Should policymakers elect to maintain the BPL, further industry consultation and input is likely to be required, in keeping with the traditional design of industry levies."⁷

For ADF to consider supporting any new charge, it requires the above-listed issues to be acknowledged and addressed.

⁶ Craik, Palmer & Sheldrake (2017), *Priorities for Australia's biosecurity system*, p. 128

⁷ https://taxpolicy.crawford.anu.edu.au/sites/default/files/uploads/taxstudies_crawford_anu_edu_au/2024-02/final_pb_breunig_vanek_feb_2024.pdf, p. 4