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Senate Standing Committees on Rural and Regional Affairs and Transport
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Parliament House
Canberra ACT 2600
Via email: rrat.sen@aph.gov.au

Dear Committee

Re: Inquiry into Primary Industries (Excise) Levy Bill 2023 [Provisions] and related bills.

NSW Farmers welcomes the opportunity to provide a submission to the Senate Inquiry into Primary Industries (Excise) Levy Bill 2023 [Provisions] and related bills. The Association also supports the National Farmers Federation (NFF) submission to this inquiry.

Position on the Imposition Bills

NSW Farmers has broadly supported the Australian Government's reform process to streamline and modernise the agricultural levies and charges (levies) legislation. This support is contingent on our understanding of the reforms, based on communications with industry from the Department of Agriculture, Forestry and Fisheries (DAFF), that the reforms are:

- Intended only to simplify and streamline the existing levies legislative and regulatory framework by reducing complexity and condensing the existing more than 50 pieces of governing legislation down to five Bills; and
- Not intended to change the existing agricultural levy system functionality and settings, inclusive of levy rates, components and disbursements to the 18 recipient bodies (Research and Development Corporations, Plant Health Australia, Animal Health Australia, and the National Residue Survey).

Following the introduction of amendments to the Imposition Bills, NSW Farmers makes this submission out of concern that the Bills would not meet the aforementioned provisions. We seek guarantee that the Imposition Bills uphold our requirements to support the Bills.

The proposed Biosecurity Protection Levy (BPL) must also be considered by this inquiry given the impact of the Imposition Bills and proposed BPL should it proceed in its current form. All these Bills have the ability to negatively impact upon the businesses of primary producers in New South Wales, if unintended consequences are not managed. If introduced without meeting NSW Farmers provisions for support, consequences could include diminished value of, and confidence in, the existing agricultural levy system, impacts to business viability and compromised biosecurity.

NSW Farmers considers the agricultural levy system an important partnership between government and industry to facilitate industry investment in strategic activities to drive growth and innovation, maintain competitiveness and manage risk. This includes investment in research and development (R&D), marketing, biosecurity activities (through Plant Health Australia and Animal Health Australia), residue testing and biosecurity emergency responses. NSW Farmers has engaged in the consultation in good faith with the understanding that no significant changes to the levy system would be made if the legislation was to pass Parliament; the objective was simply to streamline the processes in place to collect and distribute levies.

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The Association's submission to the *Modernising the agricultural levies legislation consultation* in June 2023 provided that NSW Farmers' support for the Bills is conditional on¹:

- The Bills not introducing a mechanism to collect the Australian Government's proposed Biosecurity Protection Levy (BPL), which has not been supported by agriculture industry stakeholders.
- The Bills not enabling functional and operational changes to the existing agricultural levy system, including that existing individual levy settings are retained with no change to the amount of levies collected, rates that recipient bodies receive, or activities eligible for levy investments.
- Industry levy settings remaining for individual commodities to determine, in relation to both changes to existing levies and the imposition of new levies. The mechanisms in place for industries to set their levy rates are critical to upholding the value of, and confidence in, the agricultural levy system.
- Continued Australian Government co-investment with industry levies to RDCs to continue to provide matching funding for eligible research and development expenditure.
- The Bills not enabling duplicated charges or levies on the same products including for biosecurity purposes. For example, where there is a levy on a commodity (product that is produce of a primary industry), an additional charge or levy cannot be introduced for the same expenditure purpose on the same product through the new provisions which enable:
 - Levies on the provision of services that facilitate production of products that are produce of a primary industry for all expenditure purposes.²
 - Levies or charges in relation to goods consumed by, or used in the maintenance or treatment of, animals, plants, fungi or algae for expenditure on activities, including biosecurity activities relating to the promotion or maintenance of the health of plants, animals, fungi or algae; or expenditure on matters relating to a biosecurity response.³

The recent Productivity Commission Industry levy research paper⁴ broadly cautions the continued introduction of new industry levies in light of recent trends to introduce several new levies. The report stated that ongoing growth in industry levies is reducing the efficiency of the Australian taxation system and weighing on productivity growth (industry being any industry, not just agricultural industries). To this, the Productivity Commission recommends that the Government must restore policy discipline to the introduction of new levies and that formal tests for levy proposals would be beneficial to assess costs, benefits and intended policy purpose.

Proposed amendments to the Imposition Bills

NSW Farmers has considered the amendments that were proposed to the Primary Industries (Excise) Levies Bill 2023, Primary Industries (Customs) Charges Bill 2023 and the Primary Industries (Services) Levies Bill, introduced in November 2023.

The amendments related to the need for greater clarity around the expenditure of levies collected for biosecurity activities and to codify the disbursements of these funds to Animal Health Australia and Plant Health Australia. The Association is supportive of the need for clear distinction between the proposed BPL and the biosecurity activities component of the existing levies (commonly understood as funds directed to AHA or PHA), and the emergency animal and plant biosecurity response levies that some industries have in place.

It is important that changes to the legislative framework do not result in unintended impacts for levy-funded biosecurity activities supported through PHA, AHA and emergency response agreements. NSW Farmers considers that the views of the AHA and PHA Industry Forums are most appropriate to provide specific advice on the potential impacts and unintended consequences of the Bills, which should be thoroughly considered by this inquiry. The interests of NSW Farmers' members are represented in these forums through the Association's membership of a peak industry councils that are signatories to their relevant commodity emergency deeds⁵ and subsequently members of these forums. As industry members of PHA and AHA, these peak industry councils additionally play a key role in the development and implementation of plant and animal biosecurity projects through AHA/PHA for their respective industries.

¹ NSW Farmers submission to the Modernising the agricultural levies legislation consultation – June 2023

² Primary Industries (Services) Levies Bill 2023

³ Primary Industries (Excise) Levies Bill 2023, Part 3; Primary Industries (Customs) Charges Bill 2023, Part 3

⁴ Productivity Commission 2023, *Towards Levyan? Industry levies in Australia*, Research paper, Canberra, pg 27 (Finding 2.2), www.pc.gov.au/research/completed/industry-levies/industry-levies.pdf

⁵ Emergency Animal Disease Response Agreement (EADRA) and Emergency Plant Pest Response Deed (EPPRD)

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Levies implemented for biosecurity purposes and the proposed BPL

It must be noted that while this consultation is underway, and now that this inquiry is being held, the proposed BPL must be considered by the inquiry. Regardless of messaging from the Australian Government that this and the BPL consultation are separate processes, a focus of this inquiry should be the cumulative impact of current reforms proposed to the levy system through modernising agricultural levies and the BPL as both will (or will potentially) impact the businesses of New South Wales' primary producers should they come into force as currently proposed.

The proposed amendments to the Imposition Bills reflect the significant concern that stakeholders have regarding the BPL. Concerns also include the risk of misappropriation of existing industry levies collected for specific biosecurity purposes, the process surrounding over-recovered funds and their expenditure, and the need for clear distinction between the BPL and other levies, should proceed the BPL proceed its current form.

The imposition of the BPL as currently proposed has the capacity to undermine the integrity of the existing agricultural levy system with unintended policy consequences such as impacts to the individual settings and functions agreed to by individual industries and upcoming polls (i.e., Dairy Poll and Wool Poll).⁶ Flaws in the design and rushed implementation of the BPL are contributing to confusion around the modernising levies process which has been underway since commencing in 2017-2018.

Further, the recent Productivity Commission Industry levy research paper utilises the proposed BPL as a case study of a not fit-for-purpose policy intervention, raising questions about the rationale, design and effectiveness of the proposed levy.⁷ The case study highlights that the proposed BPL is to be applied to domestic primary producers only, whilst the benefits of biosecurity are shared across a broad range of sectors and the broader community. It is noted that community-wide public goods (such as biosecurity) are more readily funded out of general revenue where the levied sector is not the only sector that will benefit from the funding of the public good. This aligns with concerns raised by NSW Farmers and other industry groups regarding the flawed design and implementation of the BPL.

NSW Farmers' policy opposes the introduction of the Biosecurity Protection Levy as currently proposed by the Australian Government. The Association's submission to the consultation was made in October 2023 and can be referred to by this inquiry.⁸ NSW Farmers recommended to the BPL consultation that the Australian Government not progress with the BPL as currently proposed, and instead properly consults on biosecurity funding mechanisms that:

1. Implement a targeted levy on a cost recovery basis on both passengers and produce entering Australia to ensure biosecurity standards are maintained.
2. Reinstates a container levy in Australia to ensure that biosecurity risk creators have a shared cost responsibility for biosecurity risks they create.

Yours sincerely

 Xavier Martin
President

⁶ NSW Farmers' submission to the Introduction of the Biosecurity Protection Levy: consultation paper – October 2023

⁷ Productivity Commission 2023, Towards Levyathan? Industry levies in Australia, Research paper, Canberra, Pg 27. Accessed: www.pc.gov.au/research/completed/industry-levies/industry-levies.pdf

⁸ NSW Farmers' submission to the Introduction of the Biosecurity Protection Levy: consultation paper – October 2023