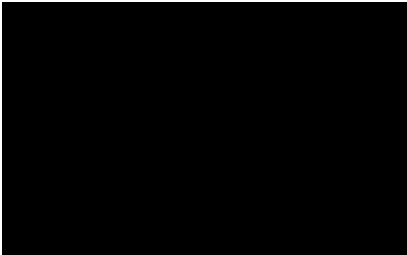


10th October 2023

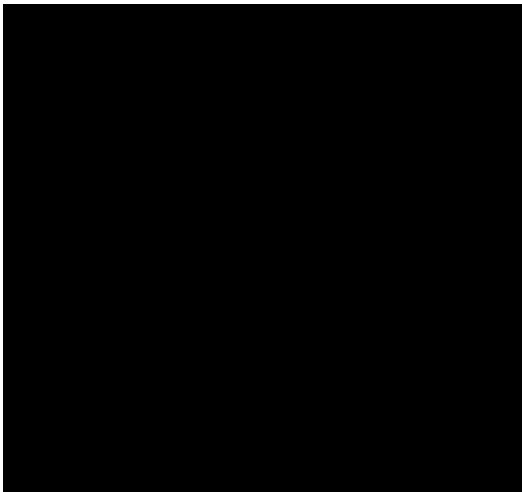


To whom it may concern,

Re: Biosecurity Protection Levy

This public submission is made by [REDACTED] in response to the *Introduction of the Biosecurity Protection levy – consultation paper*.

Yours faithfully





About

is a vertically integrated horticultural company. Within Australia, farming operations cover 7,200+ planted hectares, growing, marketing and supplying a range of fresh produce, including:

is a major exporter of and an importer of .

In financial year 22/23, paid circa \$5 million in statutory levies to the Department of Agriculture Forestry and Fisheries (DAFF), for expenditure by the Rural Research and Development Corporation, Horticulture Innovation Australian Limited (HIAL).

is the biggest single horticultural levy payer in Australia and pays statutory levies on all of the categories listed above, except for blueberries and tomatoes.

Executive Summary

wholeheartedly supports the government's sentiments and reasons for strengthening Australia's biosecurity system. also accepts that every stakeholder must contribute its fair share, and as the largest Australian horticultural company and statutory levy payer, is more than prepared to do so.

A strong and well-funded biosecurity system is needed to ensure Australian agriculture is protected, and that it can have the confidence to invest capital in agricultural activity from which it can generate a fair and sufficient return, thereby also contributing to the nation's food security, and its deserved reputation as a producer and exporter of 'clean and green' fresh produce.

does however have concerns about the proposed method by which the Biosecurity Protection Levy will be imposed and its rate and expenditure, especially given the importance the Australian Government appears to attach to biosecurity, which is clearly reflected in its decision to impose a standalone Biosecurity Protection Levy. In summary this specifically relates to:

- How the levy is proposed to be collected and allocated by the government.
- The risk that only part of the actual biosecurity levy will be expended directly on biosecurity.
- The absence of any hypothecation to ensure the levy is expended exclusively on biosecurity.
- The risk that will arise from the levy money going into consolidated revenue and who then determines its expenditure ie. the Departments of Treasury and Finance, versus the acknowledged subject matter experts in DAFF.
- The way in which it will be levied on particular fresh produce items and the rate at which it will be levied (including those which currently do not have a statutory levy in place).

- The apparent lack of any guarantee that levy funds which are levied on a specific produce item will be used either in full or in part, for the purpose of protecting the biosecurity of that produce item and those farmers who grow that item; and
- The need for greater accountability, transparency and reporting, especially the outcomes achieved in expending the levy, and the way in which competing biosecurity priorities between different agricultural products and industries are addressed.

Collection and allocation of Biosecurity Protection levy

█ notes the Minister for Agriculture's rationale for the introduction of a Biosecurity Protection Levy in a media release titled '*Budget delivers first ever sustainable biosecurity funding*' (16 May 2023) as follows:

*"...a strong biosecurity system is critical to keeping our regional and remote communities strong. Unfortunately for some years now Australia's biosecurity system has been funded in fits and starts."*¹

There would be little to no disagreement from any farmer with the Minister's statement that a strong biosecurity system is critical. It would therefore be reasonable to expect that all funds raised from the imposition of the Biosecurity Collection Levy be directly allocated to DAFF and that the levy money be hypothecated to ensure that every dollar collected is spent on ensuring Australia has a strong biosecurity system.

It is unfortunate that this will not be the case, with the levy going into consolidated revenue and not being hypothecated for spending specifically on biosecurity. This is not consistent with the Minister's comments above, nor is it consistent with the opening sentence on page two of the consultation paper which states:

'A strong and sustainably funded biosecurity system is critical to protecting Australia's economy, environment and way of life'.


Allocating the levy to consolidated revenue, from which part of it could be expended on any one of the hundreds if not thousands of individual budget expenditure items over any given year, would suggest that biosecurity does not deserve a standalone levy. Indeed, it is concerning that Treasury and Finance officials are likely to have more say over the expenditure of the levy funds than the subject matter experts in the DAFF.

Risk that only part or none of the levy will be expended on biosecurity

With the levy to be paid into consolidated revenue, there is a distinct risk that only part of the levy will be expended on actual biosecurity.

The collection and expenditure of the petrol excise tax (currently levied at 46 cents per litre of fuel) provides an instructive example of a tax that one would reasonably expect to be entirely (or at least a significant portion) expended on roads but is not.

¹ <https://minister.agriculture.gov.au/watt/media-releases/budget-delivers-first-ever-sustainable-biosecurity-funding>



According to the Australian Automobile Association, over the past decade less than 59% of revenue from petrol excise tax has actually been spent on land transport. More than 41% has been spent in other areas. That's about \$51 billion of fuel excise that wasn't spent on road safety upgrades, congestion relief, public transport, or major regional connections.²

There is a very real risk that the Biosecurity Protection Levy will end up the same as the fuel excise levy, with a large portion of the levy being expended on other non-related biosecurity matters. This would clearly be to the detriment of Australian agriculture and Australia's food security.

Calculation and lack of equity in the application of the levy

- Taxation without representation

The discussion paper notes that the Biosecurity Protection levy *'will not be subject to producer voting arrangements in relation to its establishment or change, nor will agriculture, fisheries and forestry producers or their representative bodies have a direct role in determining its use.'*

This brings to mind the old but still highly relevant democratic principle of there being 'no taxation without representation.' It is unclear why producers who will pay the levy and be the recipients of its alleged benefits, would be deprived and excluded from having a direct role in determining its use.

This will effectively create a situation where those who are in possession of the necessary knowledge, experience, and facts, will not even be consulted on how the levy is expended and its likely increase in the future. This would appear to be the very definition of false economy, and indeed ever increasing taxation without any representation.

This is also in direct contrast to the way in which the current agricultural levies operate. The existing levies have been developed specifically so that each industry and peak industry bodies are involved in having input into how the levy money is spent according to industry priorities.

- Certain levy payers will make a bigger contribution based on the statutory levy currently being applied and subsidise other protections for other producers

The discussion paper notes that a [REDACTED] will pay an extra \$0.001845 cents or 'less than' 0.19 cents per kg. Based on the [REDACTED] levy rate as at 2020/21, this includes all components of the levy, including R&D and the \$1.03 cents that is collected for expenditure on marketing.

A [REDACTED], of which [REDACTED] pays circa one third of this levy (\$1.5m), will therefore pay an extra \$0.40 cents per kilogram of [REDACTED] used, based on the current \$4 levy (\$2.92 per kg for marketing and \$1.08 per kg for R&D).

[REDACTED] alone will pay an extra \$148,000 per annum just based on its payment of the [REDACTED] levy. On any fair assessment, [REDACTED] will not get anything like \$148,000 worth of biosecurity protection for its [REDACTED]. It is safe to say that when a majority of [REDACTED] levy payers (who voted) voted to double the [REDACTED] levy in 2014, they had no idea or expectation they

²<https://www.aaa.asn.au/fuelexcise/#:~:text=Motorists%20like%20you%20are%20making,in%20fuel%20excise%20every%20year.>

[REDACTED]

would be signing up to a decade later having to pay one of the highest contributions to the Biosecurity Protection Levy.

The [REDACTED] levy contribution will also be twice the amount an [REDACTED] will contribute to the Biosecurity Protection Levy. Given this, there appears to be little to no consideration of equity in the application of the levy, indeed the formula by which it is applied is both crude and blunt. For example, there are no [REDACTED] into Australia, nor any exports out of particular volume. However, there are a number of countries from which [REDACTED] are imported into Australia, including China and the US. There are clearly biosecurity risks and costs associated with the importation of apples from China, as evidenced by the following extract from the DAFF website noting its decision to allow [REDACTED] into Australia:

*'The Director of Animal and Plant Quarantine has made a policy determination to permit the entry of [REDACTED] from China to Australia, subject to the Quarantine Act 1908, the Quarantine Proclamation 1998, and the application of phytosanitary measures, as specified in the Final import risk analysis report for fresh apple fruit from the People's Republic of China. These measures are designed to limit quarantine risk to a level that is acceptably low, in order to achieve Australia's appropriate level of protection.'*³

It is also clear that the component of the Biosecurity Protection Levy raised from the mushroom levy will be partly or significantly used to provide biosecurity protection for not only a large number of other fresh produce categories, but also other agricultural industries which have nothing in common with fresh produce. The most notable being an additional \$14 million in government funding to protect the Australian meat and livestock industry from foot and mouth disease in 2022.⁴

As mentioned above, there seems to be little in the way of equity or fairness in the arbitrary application of an additional 10% of every levy being paid to fund the Biosecurity Protection Levy.

The Minister's claim that the 'increased funding (to be raised from the levy for biosecurity) would result in tangible outcomes that would benefit industry on the ground'⁵, would appear to ring hollow for some levy payers, as clearly some industries will benefit more than others, especially more than those others that will end up proportionally paying more levy.

There is also the risk of contributing to perverse outcomes, where industry will be reluctant to increase their statutory levy rate in order to not have to pay more Biosecurity Protection Levy. This would have a negative impact on R&D activity in particular.

At the very least, consideration should be given to only applying the 10% or less to the R&D component of a levy, and excluding other components, such as marketing. In addition, any levy should be capped, to avoid a scenario where producers contribute more simply because they may through increased production at any given point in time, pay more statutory levy.

³ https://www.agriculture.gov.au/biosecurity-trade/policy/risk-analysis/memos/2010/baa_2010-20-policy_determination

⁴ <https://www.abc.net.au/news/rural/2022-07-15/foot-and-mouth-disease-government-spend/101240792>

⁵ <https://minister.agriculture.gov.au/watt/media-releases/budget-delivers-first-ever-sustainable-biosecurity-funding>

Application of the levy to produce which currently do not have a statutory levy in place

- [REDACTED]

The [REDACTED] has a voluntary levy of which a proportion (currently set at 2.2 cents per kilogram) is allocated to a collective industry fund (CIF). These funds attract Australian Government contributions for investment in industry R&D programs that are managed by Horticulture Innovation Australia Limited.

The fact that the [REDACTED] receives such government contributions, means it is therefore only fair and reasonable that it contributes toward the cost of biosecurity protection. This therefore leaves the question of what rate/amount is appropriate to apply in determining a [REDACTED] levy.

In terms of how a levy would be applied to [REDACTED] producers, we defer to and support the position put by the [REDACTED]

There are produce items which do not have any levy in place, including [REDACTED] [REDACTED]. These producers should certainly not be allowed to free ride on the contributions of other statutory levy payers to biosecurity, however because of the absence of a statutory (or voluntary levy for that matter) they do not attract any matching government funding for R&D expenditure, so have no history of such expenditure.

There is also no established history of these producers having set, let alone voted on what they believe to be a fair and equitable levy rate, and whether it would be entirely devoted to R&D or split between other priorities, including biosecurity and marketing.

In the interests of fairness and equity, such produce items should be levied at no more than the 10% (or less would be better) that is being applied to statutory levies, and if a voluntary levy, the rate on which the levy is calculated should be based on what it was in FY20/21.

- [REDACTED]

As noted, [REDACTED] production has no history of a statutory levy, therefore consideration should be given to determining an appropriate notional rate based on the cost or volume of [REDACTED] used in the production of [REDACTED]. Other measures, such as kilograms of [REDACTED] produced, would result in inequitable outcomes for [REDACTED] producers, including between [REDACTED] [REDACTED], where [REDACTED] produce more per kilogram of [REDACTED] but present less of a biosecurity risk compared to field grown crops.

Precedent exists for applying a levy to production inputs, most notably the [REDACTED] which is applied to kilograms of [REDACTED] used, and is capped. The same or similar formula could be applied to [REDACTED]. As the majority of [REDACTED] are imported, this is also the most likely point of inflection with respect to any serious biosecurity threats/breaches.



Transparency and accountability

The discussion paper notes that government will publish information annually on biosecurity revenue, funding, expenditure and outcomes. This is welcome, however, to promote maximum transparency, this should be reported by individual levy, including amount collected, amount expended of that particular levy/produce item and what biosecurity measures it was expended on, especially given the likely competing biosecurity priorities between different agricultural industries.

For example, as noted above, the needs and biosecurity costs of the meat and livestock industry will be significantly different to that of the fresh produce industry. Even within the fresh produce industry, there will be different competing needs between specific produce categories, and subsequent costs.

There should also be a separate and clear accounting of those levy monies which are not properly and directly expended on biosecurity, including all corporate related, administration and overhead costs that are incurred over the relevant period.

The effectiveness of the levy, its expenditure, and the outcomes it achieves (and does not achieve), should also be reviewed on an annual basis by an independent body, such as the Australian National Audit Office.

END.