




NSW Farmers' submission
Introduction of the Biosecurity Protection
Levy: consultation paper

October 2023

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About NSW Farmers

NSW Farmers is Australia's largest state farming organisation, representing the interests of its farmer members in the state. We are Australia's only state-based farming organisation that represents farmers across all agricultural commodities. We also speak up on issues that matter to farmers, whether it's the environment, biosecurity, water, animal welfare, economics, trade, workforce or rural and regional affairs.

Agriculture is an economic 'engine' industry in New South Wales. Despite having faced extreme weather conditions, pandemic and natural disasters in the past three years, farmers across the state produced more than \$23 billion in 2021-22, or around 25 per cent of total national production, and contribute significantly to the state's total exports. Agriculture is the heartbeat of regional communities, directly employing almost two per cent of the state's workers and supporting roles in processing, manufacturing, retail, and hospitality across regional and metropolitan areas. The sector hopes to grow this contribution even further by working toward the target of \$30 billion in economic output by 2030.

Our state's diverse geography and climatic conditions mean a wide variety of crops and livestock can be cultivated here. We represent the interests of farmers from a broad range of commodities – from avocados and tomatoes, apples, bananas and berries, through grains, pulses, and lentils to oysters, cattle, dairy, goats, sheep, pigs and chickens.

Our regional branch network ensures local voices guide and shape our positions on issues affecting real people in real communities. Our Branch members bring policy ideas to Annual Conference, our Advisory Committees provide specialist, practical advice to decision makers on issues affecting the sector, and our 60-member Executive Council makes the final decision on the policies we advocate on.

Executive summary

NSW Farmers opposes the introduction of the Biosecurity Protection Levy as currently proposed by the Australian Government.

Instead, NSW Farmers recommends that if a biosecurity levy is introduced, that:

- Biosecurity funding models that effectively account for imbalances in existing cost recovery arrangements for border pathways.
- The levy operates on a cost recovery basis, collecting from passengers and produce entering Australia to ensure adequate biosecurity standards are maintained and no levy is collected from primary producers.
- To ensure that biosecurity risk creators have shared cost responsibility the levy incorporates a charge on import shipping containers to address funding deficits in the biosecurity system.
- No levy is collected from Australia's primary producers given the substantial funding contributions they already make to the nation's biosecurity continuum.

From the outset, NSW Farmers concerns with the consultation process should be noted. It is apparent that the legislation to implement the Biosecurity Protection Levy (BPL) is being drafted in an ad hoc manner following stakeholder briefings conducted by the Department of Agriculture, Fisheries and Forestry (the Department). This is not aligned to the principle in how agricultural levies should be consulted upon, whether they are industry-led levy introductions or alterations, or levies being introduced at the direction of the Minister.

Following several briefings by officials from the Department, the Association is aware the intent of the Australian Government is to introduce this levy regardless of majority industry support. The Department and the Minister for Agriculture, Fisheries and Forestry should reconsider whether the consultation process has truly been undertaken to determine whether the levy should be introduced. The introduction of the Biosecurity Imports Levy was ceased in 2020 with the Department quoted in the media stating: *"a levy could not be implemented without significant regulatory impacts on industry and proposed levy payers"*.¹ Precedent therefore exists for decision makers to cease implementing the proposed BPL.

The current market failure for prices of beef, lamb, and mutton; livestock prices; the impacts of the phase-out of live sheep exports by sea on the national sheep market; unfair prices received by horticulturalists and poultry meat producers for their produce in comparison to retail prices at supermarkets, and increases in farm inputs (including the forthcoming cost of government-mandated electronic identification for sheep and goats) and interest rates; are all compounding the pressure being felt by many of those who feed and clothe not only Australians, but the world. Adding an additional 10 per cent or equivalent tax on Australia's primary producers is unreasonable and untimely considering the substantial financial and in-kind contribution they already make to support and uphold Australia's biosecurity.

Consideration of potential impacts of the proposed levy do not seem to have been canvassed competently by the Department. Some examples of risks are outlined in this submission. Additionally, the Department's Regulatory Impact Statement (RIS) should be made public to inform submissions to this consultation, and the consultation period should be extended to provide time to review the RIS and further submissions to be made.

¹ Beef Central, 20 May 2020, [Federal Government abandons biosecurity levy plan](#) (accessed online 26 September 2023).

Summary of recommendations

NSW Farmers opposes the introduction of the Biosecurity Protection Levy as currently proposed by the Australian Government. As such, we make the following recommendations to the consultation:

Recommendation 1:

The Australian Government does not progress with the Biosecurity Protection Levy in its proposed form, and instead properly consults on a biosecurity levy that:

1. Implements 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.

Recommendation 2:

In the event that the Biosecurity Protection Levy is introduced, that the Australian Government investigates trade implications for the New Zealand Biosecurity Systems Entry levy and considers applicability to the introduction of a container levy in Australia.

Recommendation 3:

In the event that the Biosecurity Protection Levy is introduced, that the levy should:

- Remain at the 2020-21 levy rate unless industry seeks a change to the rate, or the Australian Government consults on proposed changes to the rate.
- Be collected only once during the lifecycle of individual agricultural goods.

Recommendation 4:

In the event that the Biosecurity Protection Levy is introduced, that an annual review is incorporated under the Biosecurity Protection Levy to ensure fairness in levy contributions between commodities.

Recommendation 5:

In the event that the Biosecurity Protection Levy is introduced, that the Australian Government does not provide any funding to facilitate third parties collecting or reporting the Biosecurity Protection Levy.

Recommendation 6:

In the event that the Biosecurity Protection Levy is introduced, that the Department of Agriculture, Fisheries and Forestry report annually to levy payers and stakeholders, including:

- Total funds collected annually through the levy and industry source.
- Recipient and funding pool to which collected funds from the levy are disbursed to.
- Total expenditure of any monies collected through the levy by any recipient.
- How the levy funds were used and what was achieved.

Recommendation 7:

In the event that the Biosecurity Protection Levy is introduced, existing levy collection systems should be used to collect Biosecurity Protection Levy monies.

Recommendation 8:

In the event that the Biosecurity Protection Levy is introduced, that the Department of Agriculture, Fisheries and Forestry:

- Consult on the ability to switch-on and -off the Biosecurity Protection Levy and include this mechanism within any proposed Biosecurity Protection Levy model.
- Incorporate a clause in the Biosecurity Protection Levy legislation that the legislation will sunset after five (5) years.

Recommendation 9:

That the Department of Agriculture, Fisheries and Forestry:

- Publish a Regulatory Impact Statement that outlines the impacts of all options for the proposed Biosecurity Protection Levy for industry review before legislation is introduced to Parliament.
- Review the consultation process on the Biosecurity Protection Levy to ensure it aligns with the principles of levy consultation as published by the Department of Agriculture, Fisheries and Forestry.
- Cease the introduction of the Biosecurity Protection Levy should it be found the consultation process does not align with the principles of levy consultation as published by the Department of Agriculture, Fisheries and Forestry.
- Provide draft legislation for the Biosecurity Protection Levy for industry consultation before introduction of the Bill to Parliament.

Recommendation 10:

Should future biosecurity funding reforms be considered by the Australian Government, that the Biosecurity Protection Levy not proceed and consultation on all potential reforms be undertaken.

NSW Farmers position on the Biosecurity Protection Levy

NSW Farmers believes that a strong biosecurity system must underpin all aspects of our lives and adapting Australia's biosecurity system to an evolving world will be a key challenge over the coming decade.

The longevity and profitability of Australia's agricultural industries rests on its ability to maintain its enviable biosecurity status. With the ever-increasing threat of biosecurity breaches, it is paramount that governance mechanisms support and maintain a bio secure nation.

Australian agriculture producers are facing increasing production pressures with trade and market access issues, variable climates, labour shortages, regulatory and compliance burdens and increasing costs of production.

Many agricultural commodities are experiencing significant market price falls, which impacts the profitability and viability of farm businesses. The imposition of the BPL will add further cost to businesses. For example, reports from Meat and Livestock Australia in February 2023 outlined that the Australian cattle herd was set to reach its highest level in nearly a decade, at 28.8 million head.² The realities that this level of growth will be attained is low due to several compounding factors that will reduce Australia's ability to capitalize on changing global supply dynamics.

The effects of the recently declared El Nino and Positive Indian Ocean Dipole events are already being felt for producers in the northern part of Australia.³ Drying conditions are having an impact on business operations, with many producers sourcing alternative feed. The Australian Fodder Industry Association Hay Report for 15 September 2023 notes that diminishing local supply combined with increased transport costs and low saleyard prices are contributing to a tightening of supply and increased prices.⁴ Domestic fodder prices including lucerne, cereal and pasture hay are well above those for the 2021 and 2022 seasons.⁵

Coupled with declining market prices, the return investment for producers is marginal. The Eastern States Young Cattle Indicator as of 26 September 2023 has fallen below 400 c/kg to 354.19 cents/kg for the first time since 2019 which was at the height of the drought. Prior to this, 2014 was the last time prices were below 400 c/kg.⁶

For a beef producer in New South Wales whose business model involves feedlot operations, and the purchase of weaners and store cattle for trade, this model attracts the cattle transaction levy three times. With an example of approximately 2000 grass fed cattle and 1000 cattle in a feedlot, the additional 50 cents per head through the Biosecurity Protection Levy would equate to an additional \$1,500 on top of the \$15,000 levies that are required to be paid by this producer.

² Meat and Livestock Australia. (2023). *Cattle projections – Australia's cattle herd reaches highest level in a decade.* <https://www.mla.com.au/prices-markets/Trends-analysis/cattle-projections/>

³ Australian Government Bureau of Meteorology. (2023). *The Bureau declares El Nino and positive Indian Ocean Dipole events.* <https://media.bom.gov.au/releases/1183/the-bureau-declares-el-nino-and-positive-indian-ocean-dipole-events/#:~:text=The%20Bureau%20declares%20El%20Nino%20and%20positive%20Indian%20Ocean%20Dipole%20events,-19%2F09%2F2023&text=The%20Bureau%20of%20Meteorology%20has,of%20these%20two%20climate%20drivers>

⁴ Australian Fodder Industry Association. (2023). *Hay Report – 15 September 2023.* <https://afia.org.au/hay-report-15-september-2023/>

⁵ Department of Agriculture, Fisheries and Forestry ABARES. (2023). *Australian agricultural prices.* <https://www.agriculture.gov.au/abares/data/weekly-commodity-price-update/australian-agricultural-prices>

⁶ Meat and Livestock Australia. (2023). *Eastern States Young Cattle Indicator.* <https://www.mla.com.au/prices-markets/cattle/eycireport/>

With the cost of production increasing significantly over the past months, the imposition of the Biosecurity Protection Levy dramatically hampers business profitability and productivity. Government regulatory burden should not impose additional constraints to production for biosecurity activities which industries already contribute to.

While noting the importance of biosecurity in Australia, NSW Farmers opposes the introduction of the Biosecurity Protection Levy (BPL) as currently proposed by the Federal Government.

NSW Farmers seeks biosecurity funding models that effectively account for imbalances in existing cost recovery arrangements for border pathways. This includes risk creators contributing their share of biosecurity funding to the system, as primary producers already fund biosecurity activities before, at and post- the Australian border.

The Association would only support the introduction of a biosecurity levy on a cost recovery basis on both passengers and produce entering Australia to ensure adequate biosecurity standards are maintained. That is, no additional biosecurity levy being collected from Australia's primary producers given the substantial funding contributions they already make to the nation's biosecurity continuum.

Additional to the passenger and produce levy, the Association supports the reinstatement of a charge on import shipping containers to address funding deficits in the biosecurity system, to ensure that biosecurity risk creators have shared cost responsibility.⁷

Recommendation 1:

The Australian Government does not progress with the Biosecurity Protection Levy in its proposed form, and instead properly consults on a biosecurity levy that:

1. Implements 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.

How the reinstatement of a container levy in Australia will contribute to biosecurity preparedness

NSW Farmers and other peak industry groups remain committed to the implementation of a charge on import shipping containers to address funding deficits in the biosecurity system, to ensure that biosecurity risk creators have shared cost responsibility.⁸

Reinstating a container levy in Australia is a crucial step the Australian Government must pursue to ensure protection of Australia's enviable biosecurity status. Following the cessation of the shipping container levy in 2015, which was collected through the Full Import Declarations, stakeholders and industry alike have continually advocated for a levy of this nature to be reinstated to bolster Australia's biosecurity efforts.

⁷ NSW Farmers Submission to Sustainable Funding and Investment to Strengthen Biosecurity - Discussion Paper – December 2022.

⁸ NSW Farmers Submission to Sustainable Funding and Investment to Strengthen Biosecurity - Discussion Paper – December 2022.

The Craik Review in 2017 supported this position noting that more than one-third of the pests and diseases included in the Risk Return Resource Allocation model have containers as a pathway for entry.⁹ The risk-based inspections schemes that have subsequently been implemented, with Full Import Declarations charges of \$63 and \$43 for sea and air consignments over \$1000 respectively, has not effectively mitigated the risk of non-bio secure food entering Australia. This was a finding of Operation Avoca, which found that these charges will not support Australia being able to respond appropriately to these biosecurity risks.¹⁰

The Biosecurity Levy Committee in 2019, a working group established by the then Australian Government outlined support for a Biosecurity Imports levy on the importation of containers (both sea and air) and break-bulk items which represent creators or exacerbators of biosecurity risk.¹¹ The Committee noted that the quantum of each levy component should be determined dependent on risk, fairness and competitive impact as key factors.¹²

The Biosecurity Systems Entry levy implemented in New Zealand has ensured that biosecurity cost recovery matches the increasing volume of imported goods and emerging risk pathways for biosecurity risks. Given commentary from Australian Government officials regarding concerns about trade implications should Australia establish a container levy, the New Zealand model does not appear to have attracted any trade implications and should be considered as a model to bring a container levy into force.

Not only does a container levy have the ability to ensure risk creators have a shared cost responsibility, but a levy of this nature also has the ability to drive behavioural change amongst importers. A container levy is a practical measure to ensure compliance with biosecurity requirements by importers and foster responsibility for the risks created. The incorporation of this levy and resultant behaviour change would decrease biosecurity risks to Australia.

Recommendation 2:

In the event that the Biosecurity Protection Levy is introduced, that the Australian Government investigates trade implications for the New Zealand Biosecurity Systems Entry levy and considers applicability to the introduction of a container levy in Australia.

⁹Craik, Palmer & Sheldrake, 2017, Priorities for Australia's biosecurity system – An independent review of the capacity of the national biosecurity system and its underpinning intergovernmental agreement, page 120.

¹⁰ Australian Border Force. (n.d.) *Import Processing Charges*. <https://www.abf.gov.au/importing-exporting-and-manufacturing/importing/cost-of-importing-goods/charges/import-processing-charge>

¹¹ Trebeck, D etc al. (2019). *Biosecurity Imports Levy: A Way Forward, Report to the Minister for Agriculture by the Biosecurity Levy Steering Committee*. <https://www.agriculture.gov.au/sites/default/files/sitecollectiondocuments/biosecurity/biosecurity-steering-committee-report-may-19.pdf>. Page 31.

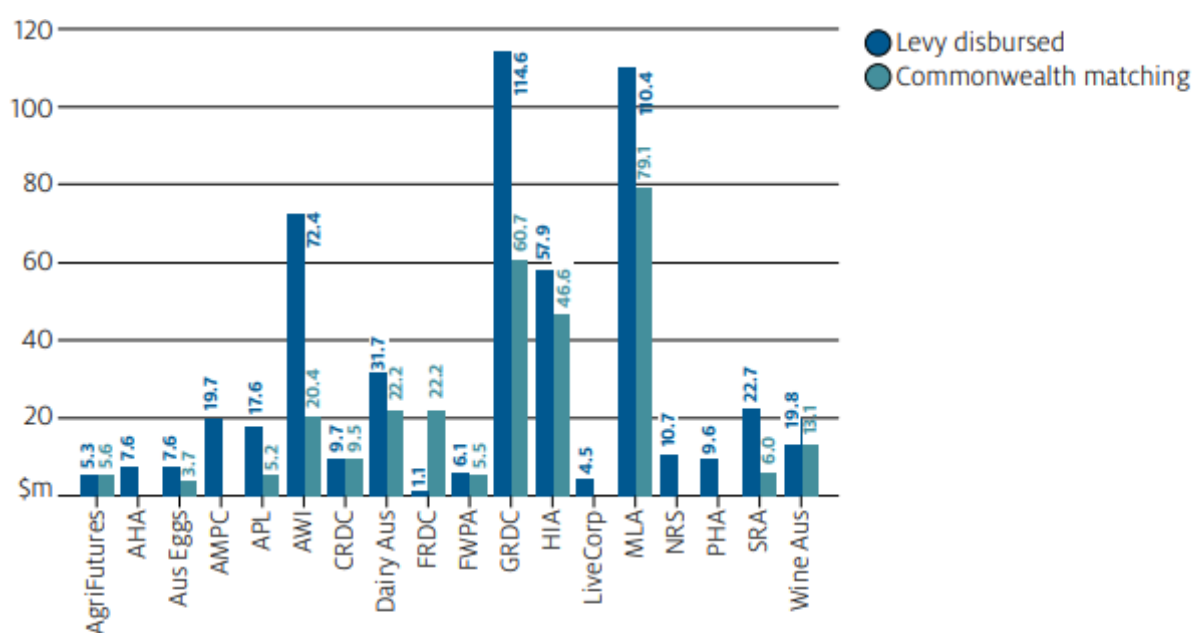
¹² Trebeck, D etc al. (2019). *Biosecurity Imports Levy: A Way Forward, Report to the Minister for Agriculture by the Biosecurity Levy Steering Committee*. <https://www.agriculture.gov.au/sites/default/files/sitecollectiondocuments/biosecurity/biosecurity-steering-committee-report-may-19.pdf>. Page 31.

Farmers significantly fund Australia's biosecurity system

Primary producers already pay a large proportion of levies and charges that fund biosecurity preparedness and response activities along the biosecurity continuum. This includes activities pre-border, at the border and post-border. In-kind support is substantial and not accounted for financially, nor generally reported. Producers are required to adhere to legislated and regulated biosecurity responsibilities dictated by all three levels of government. Compliance often requires considerable financial, time and labour contributions that are often unaccounted for when determining producer contribution to biosecurity. Other supply chain stakeholders beyond the farm gate do not contribute to biosecurity the way in which those who grow Australia's food and fibre do.

These levies fund several entities to undertake biosecurity preparedness, response capability and recovery activities to enhance Australia's ability to fend-off, respond and handle potential biosecurity incursions as seen in Figure 1. These organisations include:

- Animal Health Australia and Plant Health Australia, which have responsibility for the Emergency Animal Disease Response Agreement and the Emergency Plant Pest Response Deeds and associated review and outbreak responses.
- The National Residues Survey.
- Biosecurity related research, development and extension by Research and Development Corporations and Cooperative Research Centres projects.



AgriFutures AgriFutures Australia. AHA Animal Health Australia. Aus Eggs Australian Eggs Limited. AMPC Australian Meat Processors Corporation. APL Australian Pork Limited. AWI Australian Wool Innovation Limited. CRDC Cotton Research and Development Corporation. Dairy Aus Dairy Australia Limited. FRDC Fisheries Research and Development Corporation. FWPA Forest and Wood Products Australia Limited. GRDC Grains Research and Development Corporation. HIA Horticulture Innovation Australia Limited. LiveCorp Australian Livestock Export Corporation Limited. MLA Meat & Livestock Australia. NRS National Residue Survey. PHA Plant Health Australia Limited. SRA Sugar Research Australia Limited. Wine Aus Wine Australia.

Figure 1. Disbursement, by levy recipient body, 2018-2019.¹³

¹³ Department of Agriculture, Water and the Environment. (2020). *Report to levies stakeholders 2018-19*. https://www.agriculture.gov.au/sites/default/files/documents/report-levies-stakeholders-2018-19_0.pdf. Page 7.

Commodities also contribute to biosecurity preparedness through numerous in-kind contributions, biosecurity programs. As such, primary producers already make substantial contributions to Australia's biosecurity continuum.

Additionally, there are levies for some field crop and horticultural commodities that have a raised Emergency Plant Pest Response levy above \$0.¹⁴

The agricultural industry via Plant Health Australia (PHA) and Animal Health Australia (AHA) is already making significant financial contributions to biosecurity activities: emergency disease preparedness, response, surveillance and biosecurity activities and programs. For example, levied animal industries¹⁵ contributed \$7.3 million towards AHA's total revenue in the 2021-22 FY.¹⁶

AHA reported \$7.2 million received in levies during 2020-21. Three strategic priorities focussing on biosecurity were identified, amounting to a \$14.113 million in expenditure:

- Strategic Priority 1 (Prepared and ready to respond) - \$7.255 million
- Strategic Priority 2 (Better health and biosecurity practices) - \$3.919 million
- Strategic Priority 3 (Connecting systems for stronger biosecurity) - \$2.939 million

In the same period, levied plant industries¹⁷ contributed \$910,800¹⁸ in subscription fees to PHA and \$6.5 million in industry project funding.¹⁹

For this period, AHA's total expenditure was \$13.3 million including significant investment in biosecurity related projects for animal industries. Similarly, PHA's total expenditure was \$12.3 million including substantive investments in biosecurity for plant industries. For 2023-24, AHA forecasts that industry will contribute \$5.88 million, of which \$1.7 million will be directly collected from existing levies.²⁰ For the same period, PHA forecasts industry to contribute \$942,700 via levy-funded industry.²¹

Beyond AHA and PHA, many of Australia's Rural Research and Development Corporations (RDCs)²² make significant investments in biosecurity through their respective research and development (R&D) activities.

¹⁴ Commodities where an Emergency Plant Response Levy is set above \$0 include: barley, canary seed, cereal rye, maize, millet, almonds, chestnuts, and mangoes, for example.

¹⁵ Eight member industries have implemented a AHA levy to pay for their AHA member subscriptions and fund animal health and biosecurity activities. They include the lamb/sheep (wool producers), lamb/sheep (sheep producers), grass-fed cattle, dairy producer, grain-fed cattle, goat, meat chicken, and laying chicken industries.

¹⁶ Animal Health Australia 2021-22 Annual Report, Australian Animal Health Council Ltd 2022.

<https://animalhealthaustralia.com.au/wp-content/uploads/2022/10/AHA-Annual-Report-2021-22.pdf>

¹⁷ Twenty-three member industries have implemented a PHA levy to pay for their PHA member subscriptions and fund additional biosecurity preparedness activities. They include the grains, potato and vegetable, citrus, honey bee, nursery, banana, wine grape, sweet potato, mango, melon, apple and pear, rice, avocado, onion, cotton, olive, chestnut, cherry, summer fruit, pineapple, strawberry, forestry and dried fruit industries. Nine member industries had a positive EPPR levy at 30 June 2022. The EPPR levy is an Australian Government approved mechanism to enable repayment of any emergency plant pest response costs incurred under the EPPRD. These industries included the honey bee, grain, mango, chestnut, citrus, apple and pear, almond, cherry and vegetable (including potato) industries. A nil Emergency Plant Pest Response (EPPR) levy rate is established for another 20 industries that can be activated if required.

¹⁸ Plant Health Australia 2023-24 Annual Operational Plan: Addendum Financial Overview | Annual Subscriptions.

<https://www.planthealthaustralia.com.au/wp-content/uploads/2023/07/PHA-AOP-2023-24-Addendum.pdf>

¹⁹ Plant Health Australia Annual Report 2022, Plant Health Australia, Canberra, ACT. <https://www.planthealthaustralia.com.au/wp-content/uploads/2022/11/2022-AnnualReport.pdf>

²⁰ Animal Health Australia Annual Operation Plan 2023-2024, Australian Animal Health Council Ltd 2023.

²¹ Plant Health Australia 2023-24 Annual Operational Plan: Addendum Financial Overview | Annual Subscriptions.

<https://www.planthealthaustralia.com.au/wp-content/uploads/2023/07/PHA-AOP-2023-24-Addendum.pdf>

²² Grains Research & Development Corporation (GRDC), Agrifutures Australia, Meat and Livestock Australia (MLA), Horticulture Innovation, Dairy Australia, Australian Pork Limited (APL), Australian Eggs, Australian Wool Innovation (AWI), Cotton Research &

There are 15 RDCs co-funded by the Australian Government and primary producers, supporting investment in research, development, and extension to drive agricultural innovation. Primary producers of levied-industries pay compulsory R&D levies that contribute to levy-funded biosecurity project investments through the RDCs, including:

- Hort Innovation has invested \$57 million in 47 completed projects since 2020, and \$79 million in 42 ongoing projects (not including in-kind contributions).²³ For the past five years, GRDC's investment in biosecurity has averaged \$35 million per year, including significant contributions to the National Grains Biosecurity Surveillance Strategy 2019-22.²⁴
- Grains Research and Development Corporation has a direct role in supporting the nation's plant biosecurity system including investments in the technological capabilities that increase incursion preparedness (surveillance and diagnostics needed during an emergency response) and research to improve the available control options such as chemical treatments.
- Meat & Livestock Australia invests in R&D into biosecurity practices that aim to improve the health and welfare of livestock and the productivity and integrity of the Australian red meat industry, including preventative measures and outbreak containment programs.
- Australian Pork Limited invests significantly and each year we invest significant pork industry levy funds into biosecurity R&D, policy, communications and extension, as highlighted in the most recent Annual Report.²⁵

Several RDCs contribute financially to PHA and AHA as associate industry members to support biosecurity preparedness activities. For plant industries this includes Cotton Research and Development Corporation, Grains Research and Development Corporation, Hort Innovation, Sugar Research Australia and Wine Australia. For animal industries, this includes Meat and Livestock Australia, Australian Pork Limited, Australian Wool Innovation, Dairy Australia, and LiveCorp.

Development Corporation (CRDC), Wine Australia, Sugar Research Australia, Fisheries Research & Development Corporation, Australian Meat Processor Corporation (AMIC) and Australian Livestock Export Corporation (LiveCorp).

²³ Plant Industry Forum submission to Biosecurity Protection Levy consultation.

²⁴ GPA Fact sheet – proposed 10 percent biosecurity protection levy, Grain Producers Australia, 29 May 2023.

<https://www.grainproducers.com.au/post/fact-sheet-proposed-10-per-cent-biosecurity-protection-levy>

²⁵ Australian Pork Limited Annual Report 2020–2021, chrome-

extension://efaidnbmnibpcajpcglclefindmkaj/https://australianpork.com.au/sites/default/files/2021-10/2020-2021-APL-AR.pdf

Concerns with the proposed levy

Application of the proposed levy to levy-paying commodities

Equity in levy payment

NSW Farmers opposes the BPL as currently proposed and will therefore not comment on what a levy rate should be for levy-paying commodities, and those commodities that currently do not pay a levy. The Australian Government has already indicated the BPL will be 10 per cent for some commodities or a comparable metric for commodities where a levy is not in place, of the 2020-21 levy rates.

Should the BPL proceed, equity in the levy between commodities must be delivered in any setting should the levy be imposed on primary producers. This means that whether it is a set fee or a percentage of the 2020-21 levy, that there is fairness in the amount contributed by commodity.

NSW Farmers understands that the BPL may increase annually in line with the Consumer Price Index. This should not occur as it would make the levy become disproportionate over time, yet again an unfair impost on Australia's primary producers.

The Department should only allow the BPL to be collected once on an agricultural good. For example, if using the basis of the transaction levy currently paid on cattle, a single animal could attract several payments of the proposed BPL. Instead, the levy should be charged once, for example, at the point of processing. Similarly for grain, the levy should only be collected once at the point of purchase by the first buyer. This would overcome a livestock producer paying the BPL on purchase of grain for animal feed.

The BPL has the power to increase costs disproportionately and unfairly to levy-paying producers of other commodities who already have levy components directed to biosecurity preparedness and emergency plant pest and animal disease responses.

Recommendation 3:

In the event that the Biosecurity Protection Levy is introduced, that the levy should:

- Remain at the 2020-21 levy rate unless industry seeks a change to the rate, or the Australian Government consults on proposed changes to the rate.
- Be collected only once during the lifecycle of individual agricultural goods.

As shown in Table 1, the following commodities already contribute significantly to biosecurity functions through emergency response and levies disbursed to AHA and PHA.²⁶ The resulting impact of the BPL at 10% of existing levies means that each commodity contributes at a higher proportion to biosecurity in comparison to others. While these commodities may have agreed to a higher levy rate in order to advance marketing and R&D, the BPL did not exist at the time of these agreements. The imposition of the BPL at 10% has the capacity to undermine the integrity of the levy system.

²⁶ Department of Agriculture, Fisheries and Forestry. (n.d.) *Levy and charge rates*. <https://www.agriculture.gov.au/agriculture-land/farm-food-drought/levies/rates#animal-products>

Industry	Units	Emergency Response	Animal Health Australia	Marketing	Research & Development	National Residue Testing	Plant Health Australia	Biosecurity Protection Levy	Total
Cattle (grass & lot fed)	cents/head	0	13	366	92	29	0	50	550
Avocados	cents/Kg	0	0	4.5	2.9	0	0.1	0.75	8.25
Oranges (in bulk)	per tonne	1.05	0	0.75	3.20	0	0.30	0.53	5.83
Chestnuts	per tonne	\$10	0	\$50	\$45	0	\$5	\$11	\$121
Honey	cents/kg	2.7	0	0	1.5	0.3	0.1	0.46	5.06

Table 1. Industries who currently contribute significantly through levy arrangements and will be disproportionately affected due to existing levy structures.²⁷

Application of the proposed levy to non-levy paying commodities

Should the BPL proceed, there must be proportionate contribution from commodities that do not currently pay levies. The Department should introduce annual reviews of BPL contributions by commodity, should the rate of the 2020-21 levy change, to maintain fairness in contributions from primary producers.

Recommendation 4:

In the event that the Biosecurity Protection Levy is introduced, that an annual review is incorporated under the Biosecurity Protection Levy to ensure fairness in levy contributions between commodities.

The levy may politicise existing levies and processes

NSW Farmers considers a process through which levy payers can review the use of levy funds and determine whether industry support exists for a levy to continue as an important feature of Australia's agricultural levy system.²⁸ However, the unintended policy consequences of the BPL could undermine the intent of these systems, through grower-set levy processes such as Dairy Poll and Wool Poll.

The polls allow primary producers who pay the dairy or wool levy to vote on what their industry levy will be for a specified period as per allowed for under specified regulation and legislation. As there is no clarity from the Australian Government around review mechanisms for the BPL, there is concern this may lead to primary producers setting lower levies for these commodities in future polls to overcome the cost of the proposed BPL. Other commodities that must seek Ministerial approval to undertake consultation to change a levy may seek to do so with the introduction of the BPL for the same reason: reducing costs of business by reducing levies.

There is a risk that RDCs may politicise the BPL as a method to inadvertently receive higher levy rates. NSW Farmers is concerned that some RDCs have not understood that the BPL, if introduced, would not require that they increase levies by the amount the BPL would require. For RDCs that campaign on their levy rate each poll (for example, Australian Wool Innovation) there is risk that the RDC would inadvertently become involved in agri-political activities. The risk could potentially extend to a breach by RDCs of their Statutory

²⁷ Department of Agriculture, Fisheries and Forestry. (n.d.) *Levy and charge rates*. <https://www.agriculture.gov.au/agriculture-land/farm-food-drought/levies/rates#animal-products>

²⁸ NSW Farmers Submission to Modernising Agricultural Levies Legislation Consultation - June 2023.

Funding Agreements with the Australian Government, disabling their effectiveness as leaders of change through research, innovation, and best practice development.²⁹

²⁹ Department of Agriculture, Fisheries and Forestry. (n.d) *Rural Research and Development Corporations*.
<https://www.agriculture.gov.au/agriculture-land/farm-food-drought/innovation/research-and-development-corporations-and-companies#the-departments-role>

Levy collections from other stakeholders

Commentary from the Australian Government has referenced the increasing payments towards biosecurity by importers. However, the Budget 2023-24 Fact Sheet indicates the contribution from importers will remain less than the contribution made by primary producers. This is inequitable considering the current seasonal conditions and significant market price falls primary producers across Australia are facing. It must also be recognised that unlike importers and other supply chain stakeholders, primary producers cannot pass additional costs to their business onto customers – producers are price takers.

NSW Farmers seeks clarity on the role of third parties in either collecting levies on behalf of, or reporting levies to be collected to, the Department.

In the Budget 2023-24 Fact Sheet, *Sustainable funding for a strong biosecurity system*, Australia Post does not have an increase to its biosecurity funding of \$15.4 million under the funding with and without Budget measures. With Budget measures, Australia Post's contribution reduces from 3 per cent to 2 per cent in 2024-25. It is NSW Farmers expectation that the funding from Australia Post is not being maintained at \$15.4 million because of the reported loss the Government Business Enterprise is facing of \$200.3 million for 2022-23.³⁰

The parcel industry has demonstrated continued growth and biosecurity risks within this system are ever increasing. The risks posed by incoming mail and parcels should be commensurate with the funds contributed to the BPL. The new charges on parcels are less than the 10 per cent being imposed on primary producers, which is inequitable. The disparity between contributions from individual primary producers and incoming mail and parcels under the proposed BPL must be corrected if the levy proceeds against the position of NSW Farmers.

Similarly, the funding that the defence industry (both government and private entities) contributes to a BPL should be commensurate with risk and proportional to the levies paid by other risk creators. Additionally, no part of the BPL, should it be introduced, should fund any systems for reporting or direct collection of levies. This principle applies to any other entity (Government, quasi-government or private) that may require funding to enable levy collection if the BPL is introduced.

Recommendation 5:

In the event that the Biosecurity Protection Levy is introduced, that the Australian Government does not provide any funding to facilitate third parties collecting or reporting the Biosecurity Protection Levy.

³⁰ Financial Review. (2023). *Australia Post 'horror movie' headed for multibillion-dollar bailout*.
<https://www.afr.com/companies/retail/australia-post-delivers-200m-loss-sinks-into-red-20230831-p5e0vx>

The levy design

Transparency in levy reporting

It is critical that funds received from the BPL are kept separate from consolidated revenue if the levy is introduced. Primary producers and the Australian public are entitled to know where the monies from this levy are stored and expended. To save on costs associated with the BPL, existing levy collection systems should be used to collect the BPL if introduced.

Switch-on, switch-off the levy

From Departmental briefings it is understood that mechanisms to switch-on and switch-off the levy are being considered on a regional and commodity basis. NSW Farmers seeks clarity for the Department on how this will be enacted, including information on:

- How regions will be classified;
- What triggers will be required to set the BPL to zero;
- How the review mechanisms will be structured to potentially change the classification of regions and or re-enacting the BPL; and
- The same information for the operation of switching on or off the levy for commodities.

Inclusion of a sunset clause

NSW Farmers advocates that a sunset clause of five years be incorporated into the BPL legislation if the levy is introduced. With the cost imposition the current model will impose on primary producers, it is necessary that a sunset clause be included within any model of the BPL to review and assess its effectiveness and economic impacts.

Recommendation 6:

In the event that the Biosecurity Protection Levy is introduced, that the Department of Agriculture, Fisheries and Forestry report annually to levy payers and stakeholders, including:

- Total funds collected annually through the levy and industry source.
- Recipient and funding pool to which collected funds from the levy are disbursed to.
- Total expenditure of any monies collected through the levy by any recipient.
- How the levy funds were used and what was achieved.

Recommendation 7:

In the event that the Biosecurity Protection Levy is introduced, existing levy collection systems should be used to collect Biosecurity Protection Levy monies.

Recommendation 8:

In the event that the Biosecurity Protection Levy is introduced, that the Department of Agriculture, Fisheries and Forestry:

- Consult on the ability to switch-on and -off the Biosecurity Protection Levy and include this mechanism within any proposed Biosecurity Protection Levy model.
- Incorporate a clause in the Biosecurity Protection Levy legislation that the legislation will sunset after five (5) years.

Concerns with the consultation process

Consultation principles

As per the Department's *Levies Explained* webpage³¹, levies and charges are taxes that are either "initiated by primary industries and imposed on the producers in that industry", or "In some circumstances, the government may introduce or change a levy or charge in the public interest, in consultation with the industries involved".

The proposed BPL has not been initiated by industry. Therefore, the Department must uphold its principled approach to levy consultation. Further consultation should be undertaken with industry, following provision of more substantial information for industry's consideration on:

- Why the levy is needed;
- What the levy will fund;
- How the proposed levy will work;
- An outline of the consultation process (including future reviews of funding arrangements - refer to section *A more holistic consultation be undertaken* on page 15); and
- How the objective would contribute to the public interest in the view of the Australian Government – including the interest of primary producers the Government is proposing to charge more.

The Australian Government must also seek support for a levy of this nature before incorporation into any Bill.³² To this point, NSW Farmers expects ongoing consultation by the Australian Government with stakeholders on the BPL and that the BPL legislation is not introduced to Parliament before this occurs.

Lack of a published Regulatory Impact Statement

The absence of a RIS accompanying the proposed BPL raises significant concerns and contributes to uncertainty of what the effects of this BPL will be, should it pass Parliament. As the impact the BPL will have on stakeholders is knowingly going to be extensive, it is incumbent that policy makers adhere to the guidelines set out in the *Australian Government Guide to Regulatory Impact Analysis* ensuring that a fair and just consultation is undertaken.³³ NSW Farmers seeks a RIS be made publicly available to support stakeholder input to this consultation, noting that where appropriate, stakeholders should have the opportunity to comment on the options and influence the shape of the currently proposed BPL.³⁴

The analysis of impacts is extremely important with such a significant proposal as the BPL. It is unfortunate that the proposed BPL has proceeded given the assessed impact analysis outcome, undertaken by the Office of Impact Analysis (OIA), deemed the underpinning Biosecurity sustainable funding submission policy proposal only as 'adequate'; not 'good practice' or 'exemplary'. The OIA advised that the underpinning the

³¹ Department of Agriculture, Fisheries and Forestry. (2022). *Levies Explained*. https://www.agriculture.gov.au/agriculture-land/farm-food-drought/levies/publications/levies_explained#:~:text=Levies%20and%20charges%20are%20taxes,taxes%20imposed%20on%20domestic%20products.

³² NSW Farmers submission to Modernising Agricultural Levies Legislation Consultation – Consultation Portal - June 2023.

³³ Australian Government, *Australian Government Guide to Regulatory Impact Analysis*, <https://oia.pmc.gov.au/sites/default/files/2021-06/australian-government-guide-to-regulatory-impact-analysis.pdf>

³⁴ Department of the Prime Minister and Cabinet, (2020). *Australian Government Guide to Regulatory Impact Analysis*, <https://oia.pmc.gov.au/sites/default/files/2021-06/australian-government-guide-to-regulatory-impact-analysis.pdf> page 53.

policy failed to meet the requirements to be considered 'good practice', and that: "the impact assessment would have benefited from ³⁵:

- Further analysis of impacts, including quantification of costs, justification of costings, and description of qualitative impacts; and
Further description of consultation, including the range of stakeholders consulted and areas of agreement and disagreement on the options."

Genuine consultation should be undertaken

NSW Farmers seeks clarification of the Department's intent to conduct genuine consultation as per *Levies Explained*. It has been communicated by Departmental officials that the Australian Government's approach to the BPL is similar to the Government's commitment to phase-out live sheep exports by sea, and that they do not believe the Government will be swayed by majority opposition to the levy being introduced.

As such, the consultation process adhering to the principles of levy consultation, and consideration of support for a levy before it is introduced. Given the comment from the Department representative, it is also uncertain whether the process of consultation being undertaken is genuine particularly given the BPL is an obvious additional tax on primary producers.

Further information is required

Provision of draft legislation for consultation

To maintain transparency and accountability, NSW Farmers seeks the Department provides industry with a draft copy of the legislation for review before being introduced to Parliament and that additional consultation be undertaken on this draft legislation. It is imperative that transparency and accountability are maintained throughout this process and industry is consulted at every stage. It is essential that consultations throughout this process and into the future act upon industry input and are simplified from the current transaction levy consultation requirements to introduce or alter commodity levies.

A more holistic consultation be undertaken

The Budget 2022-23 Fact Sheet, *Sustainable funding for a strong biosecurity system*, includes reference to further work with industry to consider options for greater effectiveness and efficiency to meet emerging threats. It also refers to consideration of further reforms to funding arrangements.

This can be interpreted as future consultations on significant changes to industry settings for the collection of biosecurity related levies. As such, the BPL should not proceed unless information is provided on the possible holistic review of Australia's biosecurity funding and systems that support the collection, distribution and use of these monies.

Recommendation 9:

That the Department of Agriculture, Fisheries and Forestry:

- Publish a Regulatory Impact Statement that outlines the impacts of all options for the proposed Biosecurity Protection Levy for industry review before legislation is introduced to Parliament.

³⁵ Department of the Prime Minister and Cabinet, The Office of Impact Analysis. (2023). *Biosecurity Sustainable funding submission*. <https://oia.pmc.gov.au/published-impact-analyses-and-reports/biosecurity-sustainable-funding-submission>

- Review the consultation process on the Biosecurity Protection Levy to ensure it aligns with the principles of levy consultation as published by the Department of Agriculture, Fisheries and Forestry.
- Cease the introduction of the Biosecurity Protection Levy should it be found the consultation process does not align with the principles of levy consultation as published by the Department of Agriculture, Fisheries and Forestry.
- Provide draft legislation for the Biosecurity Protection Levy for industry consultation before introduction of the Bill to Parliament.

Recommendation 10:

Should future biosecurity funding reforms be considered by the Australian Government, that the Biosecurity Protection Levy not proceed and consultation on all potential reforms be undertaken.