Australian Government
Department of Agriculture, Fisheries and Forestry

Biosecurity Protection Levy

Summary of consultation outcomes

February 2024

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Acknowledgement of Country

We acknowledge the Traditional Custodians of Australia and their continuing connection to land and sea, waters, environment and community. We pay our respects to the Traditional Custodians of the lands we live and work on, their culture, and their Elders past and present.

Contents

Summary

The Australian Government engaged widely through a public consultation process on the Biosecurity Protection Levy. The Department of Agriculture, Fisheries and Forestry engaged with industry and stakeholders through meetings, forums, online consultation and written submissions, from May 2023 through until January 2024. This paper presents a summary of the feedback received, and an overview of how the Government is addressing the issues raised. The Government is grateful for the valuable feedback received and the strong level of engagement throughout this process.

Strengthening our biosecurity system

Long-term sustainable funding is core to Australia's ability to maintain an effective biosecurity system. The Australian Government is delivering a new sustainable funding model that is based on shared responsibility between taxpayers, those who create biosecurity risk and those who receive significant direct benefits from Commonwealth efforts to prevent pests and diseases entering Australia. Through the 2023-24 Budget package, the Australian Government is investing new funding of $1.03 billion over the next four years, and $267 million per year from 2027-28 onwards. Further information on the *Sustainable funding for a strong biosecurity system* budget package is available at: [Budget 2023-24 - Sustainable funding for a strong biosecurity system (agriculture.gov.au).]

As part of the Budget package, a new Biosecurity Protection Levy on agricultural, fisheries and forestry products and goods is being introduced on 1 July 2024. Producers, whether growing for the domestic market or exporting into premium overseas markets benefit considerably from our current biosecurity status. This is reflected in the high returns being secured from our export markets—noting that over 70% of all Australian agricultural production is exported. The Biosecurity Protection Levy ensures that those who directly benefit from Australia's strong biosecurity make a modest and direct contribution to ensure the biosecurity system is sustainably funded into the future.

It is recognised that many primary producers already invest in biosecurity through on-farm biosecurity activities. Producers also support Australia's biosecurity system through investment in research and development, membership fees for Animal Health Australia and Plant Health Australia, and contributions to emergency responses under deed arrangements. These biosecurity investments are focused on preparedness and response capabilities and are important. These investments are not being replaced or duplicated by Commonwealth activities funded through the Biosecurity Protection Levy.

The Department of Agriculture, Fisheries and Forestry (the department) engaged widely on the proposed design and implementation details of the Biosecurity Protection Levy, through a public consultation process, meetings with industry representative bodies and stakeholders and written submissions.

Biosecurity Protection Levy consultation

Briefings on the Biosecurity Protection Levy commenced in May 2023. In August 2023 stakeholders were advised of the forthcoming public consultation process and of the opportunity to register for updates. Consultation through written submissions ran from 22 August to 13 October 2023 through the departmental stakeholder engagement platform Have Your Say.

The department received 92 written submissions and has participated in around 70 meetings, presentations and forums with industry stakeholders, attended by around 400 people. Written submissions have been published in full where express permission was given. Where this was not provided, submissions have been redacted. These are available on the engagement platform: [Have Your Say - Agriculture, Fisheries and Forestry.]

We would like to thank all stakeholders who engaged in this process. We value the feedback that was provided and the constructive approach taken in discussing the issues related to the policy.

The Government has listened to industry feedback and has endeavoured to address several key concerns, with changes to the design.

This paper outlines:

- key issues raised by stakeholders throughout the consultation process; and
- changes made to the Biosecurity Protection Levy as a result of feedback received through consultation (page 10 onwards).

References to statements by various stakeholders are provided as examples and are not intended as an exhaustive set of comments in relation to each of the key issues discussed.

What we heard through consultation

Support for a sustainably funded biosecurity system but not for the Biosecurity Protection Levy

There was widespread support for a sustainably funded and strengthened biosecurity system. However, this support did not translate into support of the Biosecurity Protection Levy (BPL) as one of a number of measures to deliver sustainable biosecurity funding.

Australian Fresh Producers Alliance (AFPA) stated in its submission "AFPA has welcomed the Government's increased contribution to Australia's biosecurity system, as a robust, effective, and sustainable biosecurity system benefits all Australians". While they did not support the BPL policy proposal, AFPA "recognises the Government's decision to collect additional funds from primary producers to contribute to the cost of its biosecurity activities, noting the levy is being introduced during a challenging period for many horticulture businesses". The National Farmers Federation (NFF) disagreed with the proposed levy policy and stated that "while the NFF supports ongoing efforts to ensure our biosecurity system is appropriately resourced, we oppose the proposed Biosecurity Protection Levy (BPL, Levy) principally due to concerns over the specific constructs of the policy".

Many submitters expressed concern regarding the lack of industry consultation prior to the May 2023 Budget announcement regarding the introduction of the new BPL. Submitters also expressed concern about the time taken between the announcement and detail of the BPL being released. A number of stakeholders requested ongoing consultation in the development of the BPL, while some representative bodies indicated their constituents were not aware of the proposed BPL. A number of stakeholders wanted to be able to discuss the merits of the policy, rather than implementation arrangements and a number of respondents requested draft BPL legislation be circulated to industry for comment prior to finalisation.

While the significant and permanent increase in biosecurity funding provided through the Budget was broadly welcomed by industry, concerns regarding the BPL centred around a number of issues, outlined below.

Existing contributions to biosecurity are not being recognised

A number of industry sectors expressed concern that existing producer contributions to the biosecurity system are not being recognised, and the introduction of the BPL will mean they are 'paying twice' for biosecurity. Producers do make critically important contributions to the biosecurity system; such as:

- investment in biosecurity related activities through the agricultural levy system - investment in research and development (R&D), some of which may be directed to R&D on biosecurity-related issues; and membership fees for Animal Health Australia (AHA) and Plant Health Australia (PHA);
- contributions to emergency responses under deed arrangements; and
- through on-farm biosecurity actions.

Citrus Australia argued “it appears that the Department has disregarded the high level of existing contribution – both monetary and in-kind – that is already made by plant production industries”. AFPA argued that the BPL represented ’double payments‘ for biosecurity and stated that “incorporating the EPPR and PHA levies into the total levy calculation, which forms part of the BPL rate will create a situation where commodities that have raised this levy are in effect paying twice for biosecurity operations”.

Integrity of the existing agricultural levy system

Many stakeholders expressed concern the BPL may have a negative impact on the existing agricultural levy system, which has a high level of regard across amongst industry. Submissions outlined that the proposal as announced, to reference 2020-21 agricultural levy rates as the basis for establishing BPL rates, caused concern and confusion. Many viewed the BPL as another type of agricultural levy which should therefore be established and administered following the department’s Levy Guidelines, including industry determination of the use of the funds generated. Submissions stated that the BPL is a new tax being imposed by Government with the funds going to the Consolidated Revenue Fund (CRF) and not disbursed to recipient bodies. As a result of the association with the statutory agricultural levy system, many stakeholders believed this has the potential to compromise the integrity of and undermine confidence in the long-established agricultural levy system.

In a number of submissions, there was clear opposition to the use of the term ‘levy’ and calls to refer to the BPL as a tax. The department acknowledges that ‘levy’ has a meaning understood by industry in the context of the agricultural levy system, rather than the general meaning of the term. WoolProducers Australia recommended that the BPL be referred to as a ‘Biosecurity Protection Tax’ or ‘Biosecurity Protection Charge’ to “assist in combating the confusion that is occurring with the current inaccurate terminology.” A number of submissions also highlighted a perceived risk that the introduction of the BPL could see producers choosing to reduce their investment through the agricultural levy system, potentially impacting recipient bodies including rural research and development corporations (RDCs), AHA and PHA, or even reducing their investment in on-farm biosecurity effort.

The NFF highlighted concerns that “the introduction of the Levy will impact producers' confidence in, and support for, and (sic) the levies system”, noting that “linking the amount to be collected as 10% of 2020-21 agricultural levy contributions codifies that these are not entirely separate policies, but rather intrinsically linked.” Similarly, AUSVEG was concerned about the “risk of pushback on current agricultural levies and subsequent consequence of reduced critical investment in biosecurity preparedness activities by industry”.

Equity

A majority of submitters considered the referencing of 2020-21 agricultural levy rates as the basis for establishing BPL rates as inequitable.

It was commonly noted that agricultural levy rates, on a per commodity basis, have been determined by industry and reflect each individual sector’s decisions to invest (or not) in R&D, marketing, contributions to AHA and PHA for biosecurity related activities, and residue testing through the National Residue Survey.

Furthermore, biosecurity emergency response components are paid in relation to some commodities and not others. Relevant sectors indicated inclusion of emergency response levies in the calculation of BPL rates was unfair.

Some sectors believe they would be penalised with a disproportionate BPL contribution because they have elected to invest more than other sectors through the agricultural levy system. Grain Producers Australia stated that “the proposed levy is inequitable and unfairly targets industries that are well organised and invest in their futures.” For example, WoolProducers Australia argued that they would be “contributing at a disproportionately higher rate than other commodity levy payers, in fact at a rate that is 2.4 times higher than average.”

Concerns were also raised by several submitters from sectors where the agricultural levy rates and imposition points are more complex. In some cases, in the agricultural levies system there are multiple imposition points for the same commodity, including sale, processing and export. Some levies may also be applied more than once in the supply chain. For example, cattle and livestock transaction levies generally apply each time the same animal is transacted. WAFarmers expressed its concerns that “under the proposed BPL, livestock industry entities will be treated inequitably as a single animal can be transacted several times with levies imposed as it moves through the supply chain”. WAFarmers suggested “that a levy should only be collected once on an animal through its lifetime”. The proposal that the BPL should be imposed once per product was echoed by WoolProducers Australia who recommended that “if the Biosecurity Protection Levy is to proceed, that the charge is applied only to the product once regardless of how many times the product is transacted.”

Concerns were also raised in relation to implementation of the BPL with respect to commodities that are not within the existing agricultural levy system. The majority of stakeholders consulted wanted to ensure that all primary producers paid the BPL (including those currently not covered by the existing agricultural levy system). In seeking this outcome, submitters questioned whether bringing additional commodities into the scope of the BPL could mean that the intended $50 million per year revenue target may be exceeded.

A number of stakeholders suggested the use of gross value of production (GVP) as a more equitable basis for calculating BPL rates. This would mean that levy rates would be set according to the proportional share of relevant industry sectors to overall GVP, providing a more common and equitable footing.

The AFPA recommended the Government consider alternative BPL models, including “a production value based BPL”, while the Tasmanian Farmers and Graziers Association stated “our consultation shows support for alternative options for what the levy rate should look like and when and how it should be collected. These options include having the levy rate as a percentage of the commodity’s market value.”

Influence, accountability and transparency

The need for transparency, accountability and reporting in relation to the revenue raised through the BPL and its expenditure was a consistent theme during consultation. RDCs in particular observed how they were accountable to industry on the expenditure of funds collected through the agricultural levy system.

Numerous submitters emphasised that industry should have a say on how the funds generated through the BPL would be used. Some were concerned that while reporting would provide visibility on expenditure, it would nevertheless be retrospective and not give 'real time' confidence that the funds were being deployed in the most effective manner. This linked to the strong views held on the industry-led nature of the existing agricultural levy system where industry has influence on how funds are used. By referencing the agricultural levy system as the basis for establishing BPL rates, many believed that the same principles should apply, including industry's say in how funds are used.

Australian Dairy Farmers highlighted "there is no certainty that 100% of the revenue collected via this charge will be either expended on biosecurity or will result in an equivalent increase in biosecurity funding, especially if utilised to help cover existing departmental deficit budgets". The Red Meat Advisory Council (RMAC) emphasised "it is critical that industry stakeholders have oversight of how the new Biosecurity Protection Levy is administered and that they can have confidence the funds are being used as effectively as possible to support the nation's biosecurity systems".

In a number of cases, sectors advocated for the establishment of a formal process where industry would have a role in determining expenditure of BPL funds. Others suggested the department engage with industry on the development of accountability and transparency measures, including public reporting. The Australian Chicken Meat Federation recommended that "a Biosecurity Levy Consultative Committee be established to support priority setting for initiatives funded under the biosecurity protection levy". Similarly, the Australian Forest Products Association recommended that a new consultation process on an equitable and sustainable biosecurity funding framework be initiated.

Cattle Australia (CA) stated "the new Biosecurity Protection Levy design include a mechanism for real-time industry consultation, both for the implementation of the Levy and its ongoing management, consistent with the sustainable funding actions of the National Biosecurity Strategy".

Submitters also expressed concern that the funds generated by the BPL will be going to the Consolidated Revenue Fund and not directly hypothecated to biosecurity, with stakeholders stating they did not have confidence that the BPL would directly lead to better biosecurity outcomes.

For the purposes of transparency, there was widespread agreement that the BPL should be collected and reported on separately to existing statutory agricultural levies, notwithstanding the use of existing collection arrangements was seen as the most practical way to administer the new levy.

Some stakeholders also suggested that the Inspector General of Biosecurity (IGB) be involved in the oversight and review of the BPL.

Risk creators should pay more

The shared responsibility and beneficiary pays rationale for the BPL did not resonate strongly with submitters. Many stated the view that producers should not have to contribute to the Commonwealth's activities directed at preventing pests and diseases entering Australia, and also commented that Government should introduce a container or import levy instead of the BPL. Many of these stakeholders referred to the 2017 Independent Review of the Intergovernmental Agreement on Biosecurity (the Craik Review) as justification for a container levy.

Grain Producers Australia stated that "the container levy should be introduced first, to ensure risk-creators are contributing more/equally to shared responsibility and accountability, before grain producers are made to pay another levy, to help fund and strengthen the biosecurity system." Similarly, RMAC stated that "given the substantial financial and in-kind contribution that primary producers already make to the national biosecurity system, RMAC strongly supports the introduction of additional measures that target biosecurity risk creators to fund improvements to strengthen the national biosecurity system for the benefit of all Australians."

Levy basis and rate

Other concerns regarding setting BPL rates referencing 2020-21 agricultural levy rates centred on why that particular year was chosen. Many considered that it was not a representative year and would lead to over-collection, or alternatively suggested that a range of years should be used.

Some sectors suggested that various components of the 2020-21 agricultural levy rates not be included as part of the basis for establishing BPL rates, for example the marketing component, or emergency response components. Others suggested using the R&D component only, or applying a lower percentage, while there were also suggestions of a yearly cap on revenue collected.

As noted above in the section discussing equity concerns, many industry sectors were of the view that referencing 2020-21 agricultural levy rates as the basis for setting BPL rates was flawed as it did not link to biosecurity risk, industry size or value or other relevant baseline. AFPA identified that "the use of existing levies to generate the BPL is flawed. Existing levies are not an appropriate proxy for production, volume or value, or any baseline by which the Government is able to make an assessment as to the level of 'benefit' a producer should be responsible for contributing to the biosecurity system". Similarly, Citrus Australia argued "the basis for setting the levy (current levies paid) is flawed, as current levy contributions by an industry towards to R&D, marketing etc. is in no way related to the benefits received, risk posed, and current contribution made to biosecurity".

Levy collection arrangements

Most submitters suggested using existing agricultural levy collection arrangements where possible as this would have the least impost on all parties.

While there was opposition to the BPL overall, most stakeholders nevertheless adopted the pragmatic view that if a BPL is to be introduced, harnessing the existing agricultural levy system collection arrangements would be the most practical method of administration. It was emphasised by stakeholders including Grain Producers Australia, that BPL collection should be clearly visible as a separate line item to agricultural levy payments.

In relation to producers that currently do not pay statutory agricultural levies, the view of stakeholders was the design of collection mechanisms should be as simple as possible, minimising the administrative burden on new levy payers.

Conversely, Australian Grape & Wine (AG&W) suggested that "the collection mechanism must be separated from the agricultural levies collection. It is critical that there is no confusion generated that might detract from industry's ongoing appetite to contribute to building competitiveness through levies". The only alternate collection arrangement put forward was collection through the Australian Taxation Office (ATO).

Exemptions and thresholds

A number of submitters raised issues relating to the use of exemptions (for example during periods of drought or following natural disasters) and thresholds (for example the level of production or low stock sale values) within the construct of the BPL. Some stakeholders highlighted that biosecurity risk does not stop with larger producers and small-scale producers and hobby farmers are not immune from biosecurity risk including pest and disease incursions.

Some stakeholders suggested that industries that already pay state-based biosecurity fees be exempt from the BPL or have a reduced levy rate.

The Australian Forest Producers Association emphasised "current exceptions applying in the levy system regarding minimum volumes of forest logs or products produced or imported should apply to any new proposal". Australian Pork Limited called for an exemption from paying a BPL on the component of their levies relating to marketing and the National Residue Survey and stressed that any calculation should be based solely on the R&D levy component. Similarly, the Australian Chicken Meat Federation (ACMF) advocated that exceptions apply to emergency response levies, to ensure that the levy is implemented in an equitable manner across all industries.

Economic and social impacts

The majority of stakeholders stated that the BPL will result in increased costs for producers, who in many cases would not be able to pass on the additional cost. Submitters noted the increased costs of doing business for agricultural producers, against a backdrop of a reduction in the value of some commodities, increased cost of living pressures, impending drought, and other changes being implemented in some sectors such as the introduction of electronic identification (eID) requirements and the phase out of live sheep exports.

Third party impacts

A number of stakeholders, particularly collection agents, raised concerns regarding third party costs and impacts associated with the BPL such as changes to broker ICT systems and software, increased fees, and increased costs associated with BPL administration and compliance. The department's discussions with brokers and ICT/software companies have indicated that changes to system and collection mechanisms, based on the policy as proposed, would be relatively minor and straightforward. The key issue raised with the department is that ICT companies may require several months' lead time to make the necessary software changes to allow system updates and roll-out to collection agents.

The issue of who pays for ICT upgrades to software and the additional work for primary producers was raised by a number of stakeholders.

A number of RDCs voiced concerns that their capacity to invest in biosecurity R&D may be reduced as producers could choose to either reduce the amounts they contribute through the agricultural levy system, or postpone increases in levies.

Timing impacts

Concerns were raised that the 1 July 2024 deadline for BPL implementation is too ambitious and does not allow sufficient time to establish new administrative arrangements. Seafood Industry Australia (SIA) stated that "calculating fair and equitable levy rates and collection points for all target species, let alone non-target species, will be extremely difficult to achieve by the Government's 1 July 2024 deadline".

Concerns were also raised that the BPL should not proceed for seafood industries until the seafood study and aquatic deed issues have been finalised.

Alignment with National Biosecurity Strategy

A number of stakeholders suggested the National Biosecurity Strategy Implementation Committee (NIC) be involved in determining BPL revenue allocation. Cattle Australia (CA) proposed that the new "Biosecurity Protection Levy be aligned and is consistent with Australia's National Biosecurity Strategy and its six key priorities". CA further suggested that the implementation of the BPL needs to be informed by the deliberations of the National Implementation Committee (NIC). The NFF was concerned that "the policy is inconsistent with the principles of the National Biosecurity Strategy, in particular those related to the sustainable investment priority area".

Legislative mechanisms

Most submitters supported the BPL being established under separate legislation to agricultural levies. A number of stakeholders raised the need for BPL legislation to include review mechanisms for the legislation and proposed BPL rates, including a sunset clause and anti-ratchet provisions. The call for ongoing review mechanisms has continued to be reiterated by stakeholders. GrainGrowers recently stated "this funding mechanism requires regular rigorous review to ensure appropriate performance, appropriately set charges, and return benefits to levy payers. A regular review mechanism must be implemented to ensure that the proposed biosecurity levy is fit for purpose."

Respondents also requested that the BPL be subject to a new regulatory impact statement (RIS).

Other issues

A number of submitters:

- Stated that the BPL does not adhere to the department's Levy Guidelines, and also the Department of Finance's Cost Recovery Guidelines.
- Indicated that the BPL does not guarantee sustainable funding of the biosecurity system.
- Questioned the department's capacity to manage Australia's biosecurity system. These concerns stemmed from biosecurity issues such as Varroa mite and Red Imported Fire Ants.
- A number of submissions also questioned the ability of the department to manage biosecurity risks and funding citing publicly reported budget challenges faced by the department in 2022-23.

Changes to the Biosecurity Protection Levy

The Australian Government has given significant consideration to the issues and proposals raised by stakeholders throughout the consultation.

A number of changes have been announced to the design of the BPL to address key concerns, with a focus on:

- equity and fairness of levy rates;
- association and confusion with the existing agricultural levy system;
- multiple imposition points across the supply chain for some products;
- confidence in how biosecurity funding, including from the BPL, is being used; and
- review arrangements.

A more equitable design

Changes to the design of the BPL will help to ensure it is imposed in a more equitable, effective and efficient way.

Change to rate setting – using proportional Gross Value of Production (GVP)

The original design was for BPL rates to be set equivalent to 10% of 2020-21 agricultural levy rates, or an equivalent metric for commodities not within the agricultural levy system. Rates will now be set across all products and goods on the common and equitable basis of each relevant industry sector's proportional share of total Gross Value of Production (GVP). They **will not** be set by reference to 2020-21 agricultural levy rates – rates will be entirely independent of agricultural levy rates.

By placing all products and goods on a common footing, this will address inequities that would result in basing BPL rates on agricultural levy contributions. This change also addresses concerns of inequity of calculating BPL rates using emergency response deed repayments, marketing, etc.

It will also ensure that rates are calculated on the same basis for all products and goods, regardless of whether or not they are covered under the agricultural levy system. This will also help to address concerns with potential 'over collection' of the BPL.

Overall, the changes in design will further separate the BPL from the agricultural levy system, going some way to addressing concerns the BPL would have a negative impact on the integrity of, and confidence in, agricultural levies. The separation between the BPL and agricultural levy system should now be more visible, helping to remove some of the confusion created by the strong association between the two in the original BPL design.

This is further assisted by confirmation the legislation underpinning the BPL will be entirely separate to the legislation that underpins the agricultural levy system, including the package of Bills currently before Parliament to modernise the agricultural levies legislative framework.

Change to BPL collection – collecting once in the supply chain

The original design of the BPL utilised the same imposition points as the agricultural levy system as this provided a familiar reference for industry and looked to utilise its existing collection and remittance arrangements to reduce administrative impost.

While implementation of the BPL would still reflect imposition arrangements under the agricultural levy system where it is efficient and effective to do so, it is intended these arrangements would be streamlined to ensure the BPL is imposed only once in relation to each product or good across its supply chain. This will address concerns the BPL would be imposed multiple times on the same product, while still ensuring existing collection and remittance arrangements are used wherever possible.

This will minimise the administrative burden associated with new imposition and collection arrangements, noting the strong industry views on this issue. It should also be noted that new imposition and collection arrangements could also be established in relation to products or goods where this would provide a better outcome. For products not covered by existing agricultural levy arrangements, new imposition and collection arrangements will need to be established. The department will engage with relevant stakeholders to ensure these arrangements are as simple as possible.

Greater accountability and transparency – additional arrangements

In response to concerns regarding industry confidence in how funds generated through the BPL would be used and whether these funds would lead to effective outcomes, the Government has agreed that additional transparency and accountability measures should be implemented. New and additional arrangements for engagement regarding biosecurity sustainable funding and priority setting will be implemented with the BPL. The form of these arrangements will be announced by Government at a later date.

This builds on the Government's commitment announced in May 2023 to strengthen transparency and accountability arrangements including annual public reporting of biosecurity funding and expenditure. This will include reporting on BPL revenue generated.

Legislative and administrative reviews

The BPL legislation will provide for a review of the operation of the legislation, to commence no later than three years after the legislation commences. This is specifically in response to stakeholder feedback seeking the inclusion of legislated review mechanisms.

This builds on the review of the BPL to be undertaken by the department every three years with a particular focus on the amount of revenue being generated and appropriateness of rates and imposition arrangements.