



# NSW Government Submission to the National Environmental Biosecurity Response Agreement Review

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## Overview

NSW welcomes the opportunity to provide comment on the National Environmental Biosecurity Response Agreement (NEBRA) review process.

The most important outcome that NSW would like to see resulting from the review is an increased understanding by stakeholders of their roles and responsibilities for biosecurity. This will require the delivery of significantly more effective communication and education programs than currently exist. Improved transparency that reveals how NEBRA decisions and priorities are determined would also be an important outcome of improved communication with stakeholders.

The NEBRA is regarded by NSW as a strong agreement that benefits from being drafted late in the national biosecurity agreement development process. NEBRA clearly articulates its purpose and function and provides concise direction within the agreement body and also the Schedules.

The response process is clear and the supporting structures and governance have proven to work effectively in the five responses where the agreement has been utilised. The responsibilities of signatories to be prepared for incidents and manage eradication within their borders is clearly articulated as is the mechanism for response activation and cost sharing. NSW is aware that there is inconsistency in response capability and capacity across the jurisdictions and advocates a peer review process to assess current capability and capacity levels. NSW also notes that the NEBRA promotes the development of Memoranda of Understanding (MOUs) and other partnership mechanisms to increase capability and capacity and a register of these arrangements would be useful.

NSW is aware that as NEBRA responses are in the environmental context, the evidence base for new and emerging threats is often immature and therefore has the potential to delay decision making. This is even more likely under an increasingly changing climate. Quite apart from climate change impacts, the increasing globalisation of trade and transport mechanisms and the rapidly increasing rate of movement of people around the world increases the biosecurity threat to the environment. NSW recommends that the review examine the capacity of the NEBRA to meet these increased threat levels in terms of decision making processes and consistency with other response deeds. There is a risk that as new threats emerge there will be increasing uncertainty as to which deed the responses will sit with if there is limited or incomplete knowledge as to their threat and impact. Recommendations on leadership, responsibility and accountability for keeping abreast of new knowledge and threat levels would be a useful review outcome.

NSW welcomes recommendations on how to improve engagement with non-government stakeholders and on how to increase their role in preparedness and surveillance activity that is recognised as problematic in the environmental biosecurity context. There is scope for improved intelligence sharing and collaboration in preparedness and response activity. There is also scope to promote the value of in-kind contributions to NEBRA to reflect the range of inputs that non-government stakeholders can provide.

NSW believes that there is a need to develop a list of priority environmental pests and diseases and in doing so, improve the categorisation of risk and the monetisation of impacts. Compared to the plant and animal deeds this is a shortcoming.

NSW looks forward to the NEBRA review report.

## **Purpose of the National Environmental Biosecurity Response Agreement (NEBRA)**

NEBRA was developed to establish national arrangements for responses to nationally significant biosecurity incidents where there are predominately public benefits.

The critical aspects of this statement are that it requires national involvement, that incidents are classified as nationally significant and that the incidents are predominately delivering negative impacts to the community and not industry.

For the Agreement to reduce the negative impacts from pests and diseases to Australia's environment and social amenity, NEBRA establishes national response arrangements and cost attributions to be applied by agreement of the parties where there are no pre-existing arrangements. NEBRA is therefore a supporting agreement under the Intergovernmental Agreement on Biosecurity (IGAB), and relates to responses that are not covered under the Emergency Animal Disease Response Agreement (EADRA) and Emergency Plant Pest Response Deed (EPPRD) agreements. NEBRA was developed not to be applied retrospectively (pre-2012) and is specifically not able to be used where other agreements have carriage. NEBRA was established after EADRA and EPPRD.

NSW is supportive of the NEBRA agreement and believes that it delivers what it was designed to do by clearly articulating how governance and decision making is conducted. The agreement is clear on its purpose and the mechanisms to be used to make determinations on suitability, management of responses and cost sharing arrangements and it has been utilised for five responses to date. NEBRA is regarded as fit for purpose now and for the future. For example, the recent red imported fire ants (RIFA) outbreak in Port Botany was successfully and effectively managed using NEBRA.

## **Roles and Responsibilities under NEBRA**

The agreements under IGAB (EADRA and EPPRD and NEBRA) are each very explicit about decision making and roles and responsibilities in relation to who benefits and who pays for emergency responses. In reality, biosecurity incursions often have both production and environmental impacts, which blurs roles and responsibilities and decisions around beneficiaries and who costs should be attributed to.

Presently under NEBRA (and in the production context under the EADRA and EPPRD) jurisdictions and industry signatories are required to be able to demonstrate that they can meet their obligations and commitments under these agreements. National animal and plant health performance standards have been developed in order to be able to do this, however, their use for these purposes has been problematic. Issues include reluctance from governments to review all elements of the biosecurity system, a reluctance to agree on what might constitute proof that jurisdictions are meeting their obligations, a reluctance to have an independent reviewer, and reviewers not understanding the systems well enough or having the skills necessary to audit to the level required.

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Previously AHA and PHA have managed the auditing process. This has generally failed to provide the data necessary to reassure all signatories that obligations are being met.

Recently a working group established under IGAB has been looking at alternative ways of achieving a performance framework, measures and auditing process for NEBRA in the hope that this might be able to be expanded to cover all related agreements and the IGAB. This system is based around the development of a set of criteria that describe 'normal commitments' capability and a self-assessment by jurisdictions against the criteria. A peer review process has recently been trialled involving Queensland, NSW and Victoria. NSW regards the NEBRA self-assessment process and the peer review process as important and successful mechanisms to measure performance and capability. The Benchmarks Working Group assessments, self-assessments and peer review were initially designed to cover all aspects of the systems in NEBRA and the NBC is currently reviewing the process to assess suitability for measuring capability for the other agreements where the requirement to meet 'normal commitments' is similar.

The NEBRA is also clear that jurisdictions are required to have other agreements such as MOUs in place to formalise roles and responsibilities with local government and other response partners to be able to meet response commitments. NSW is confident that its NEBRA response system is robust with agreements and policies in place under the NSW emergency management system that supports the multiple agency response approach that is required. It is apparent that not all jurisdictions are equally placed to meet their commitments under NEBRA and the review is well placed to comment on this.

Recent improvements to biosecurity legislation introduced by jurisdictions will contribute to the effectiveness of the NEBRA and IGAB agreements through the strengthening of the General Biosecurity Duty approach that aims to increase stakeholder responsibility for surveillance and reporting. There is a fundamental need to better communicate with all stakeholders about their role in relation to NEBRA (as there is for the other agreements). There is an opportunity to improve options in NEBRA for risk creator contributions that are identified in the *Biosecurity Act 2015* (NSW) and other recent legislative updates by jurisdictions.

It is apparent that currently there is a gap in environmental agency funding specific to NEBRA activity and there is also an opportunity for the Commonwealth Department of the Environment and Energy to be more engaged with state environmental departments. It is difficult to quantify the financial impacts of environmental biosecurity responses compared to production impacts. Effort could be made to improve the accounting of environmental impacts to be used to inform budget development for environments agencies. In the NSW Department of Primary Industries (DPI) there is no budget allocation for environmental responses, and although this has not proven to be limiting response effectiveness, it may be limiting surveillance capacity. Surveillance of productivity related diseases has a much broader base of participants than environmental pests and diseases and there is scope to improve the engagement of non-government environmental groups in surveillance to capture incursions more quickly. There is sufficient scope through the agreement at the jurisdictional level to further develop relationships with non-government stakeholders aimed at improving surveillance capability.

The review provides an opportunity to examine expanding the agreement from covering eradication

responses only to also include containment. NSW is of the view that given the objective of the agreement is to provide freedom from pests or diseases of national significance eradication is the priority for effective risk management, not containment. NSW is also of the view that the agreement is set at the right level of risk management taking into account the expectation that jurisdictions manage impacts under their 'normal commitments' obligations.

## Decision making and governance

NSW believes that the existing agreement structure under IGAB clearly defines roles. EADRA and EPPRD deal with new pests and diseases that impact on production (and may impact on the environment) and NEBRA may be used where there is an environmental pest or disease of national significance. Weeds of the environment are the only weeds that could fit under NEBRA, but weeds were never agreed to be included in the EADRA or EPPRD agreements and a new agreement is being developed to cover this issue. An aquatic agreement is also being developed.

NEBRA provides a clear outline in Section 6 on the mechanisms for decision making and in Section 7 on the mechanisms for cost sharing. NSW is of the view that the decision processes are clear and have proven to be effective in the five responses to date. The approach taken reflects the timing that NEBRA was drafted, as it was able to use the history of EPPRD and EADRA experiences to apply a best practice approach to drafting the agreement.

If the agreement was able to be expanded to include non-government stakeholders as signatories and therefore include them as cost contributors, this may allow a broadening of scale to allow coverage of responses to lower order impacts. If non-government stakeholders became parties to the agreement the governance structure would need to change to include those parties in the decision making process and where relevant, as contributors under the cost sharing arrangements. Contributions could include both cash and in-kind. Until the signatories include non-government stakeholders, NSW is of the view that the governance structures in place in the agreement are suitable to the task and are working effectively. The structures also align with the mechanisms used in the other response agreements.

EHA is an entity at an equivalent level to the Animal Health Committee and Plant Health Committee that is responsible for environmental biosecurity issues as proposed in the NSW submission to the IGAB Review. If, as a result of the IGAB review an Environmental Biosecurity Australia (EHA) is established there is scope to determine whether such a group has a role in the custodianship of the NEBRA. In principle, NSW supports this position subject to the new organisation having appropriate the terms of reference, roles and membership. Regardless, NSW believes that there is a need to increase the transparency of NEBRA's operation through increased engagement and communication with stakeholders. This should be done at a custodian level but also at a signatory level.

NSW strongly supports the development of a performance measurement model which accounts for sectoral needs. Presently in the production area under the EADRA and EPPRD there are requirements for each of the jurisdictional and industry signatories to be able to demonstrate that they can meet their obligations under these agreements. National animal and plant health performance standards have been developed in order to be able to do this, however, their use for these purposes has been problematic. More recently a working group established under IGAB has

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been looking at alternative ways of achieving a performance framework, measures and auditing process for NEBRA in the hope that this might be able to be expanded to cover all of the agreements and the IGAB. This system is based around a self-assessment and a peer review process and has recently been trialled across Queensland, NSW and Victoria. NSW regards the NEBRA Benchmarks working group Normal Commitments Maturity Matrix as an example of a high level performance monitoring system that could be adapted and adopted for the purposes of monitoring performance across the whole national biosecurity system.

One of the problems with attempting to develop a single framework for monitoring the national biosecurity system has been the independent development of performance criteria and monitoring processes based on sectoral differences (i.e. animals, plants and environment) rather than recognising the similarities of the high level requirements necessary for a national system across sectors.

NSW supports decision making that is evidence based and transparent, in keeping with best risk management principles, and that gives confidence to governments and the community that funds are being committed appropriately. These are the principles under which decision making regarding the activation of NEBRA currently occurs.

NSW recognises that the criteria for determining 'national significance' can be problematic in the environmental space due to limited data on new and emerging threats and the disease investigation phase and new data collection often taking significant time. This issue is of increasing importance as the uncertainty caused by climate change and increasing global trade and people movements will bring new threats.

## Delivery of response activities

The IGAB Review Draft Report (2016) cites ongoing stakeholder concerns about the effectiveness of existing national arrangements to address environmental biosecurity risks and elevated this issue as a key area of the IGAB review. The Panel noted the number of off-agreement responses which mostly pre-dated NEBRA. Anything post-NEBRA sign-off (with the exception of weeds) has been covered by one of the existing agreements. There are however still some gaps (e.g. weeds) that need to be filled with respect to responses as well as how to maintain an ongoing program to contain incursions.

The pre-NEBRA off agreement examples indicate the difficulties in eradicating an environmental pest once established, reemphasising the need for border control. Some environmental responses to a species are covered by NEBRA while other responses for the same species are not because many pre-date NEBRA.

The IGAB Review Report cites 'Yellow crazy ants are considered an established pest so do not come under the national arrangements for cost-shared eradication' as an example of a shortcoming in the NEBRA process. NSW had a yellow crazy ant incursion a number of years ago at Yamba. Fortunately it was contained to an island in the river with NSW undertaking a successful eradication program jointly between the primary industry and environmental agencies, at our own expense as it was our responsibility. This demonstrates there are some things that still remain the responsibility of

individual jurisdictions. The agreements were not designed to remove or transfer these responsibilities but to provide support in specific circumstances. Any widening of the scope of the agreements or the creation of new agreements will increase liability and this needs to be recognised, quantified and negotiated. In the case of an ongoing management plan introduced after a failed eradication plan or in the case of a pest or disease that is considered endemic in a particular region there are 3 options:

1. The jurisdiction alone funds the response within its borders. This is the status quo.
2. The jurisdiction and the Commonwealth partner to cost share. If it is of sufficient importance, then the Commonwealth may choose to contribute e.g. Pacific Oyster Mortality Syndrome in Tasmania was regarded as significant. When it occurred in NSW, it was not seen as significant and was not cost shared with the Commonwealth. In reality the Commonwealth gains its funds from across Australia so the jurisdictions are contributing already when the Commonwealth provides funds.
3. If other parties feel threatened or are concerned an infected jurisdiction may not do enough they could offer to assist as well. The difficulty is that without an agreed framework it is difficult to gain support from treasury departments to commit to fund activities in another state.

The IGAB Review Draft Report acknowledges ‘that environmental biosecurity has dominated the emergency response efforts and agency budgets in recent years, particularly in relation to incursions of various tramp ants’. NSW is of the view that given what is spent on RIFA nationally, plus a proportion of what is spent on weeds and vertebrate pests (as they also have an impact on biodiversity) jurisdictions already spend significant funds on the environment. What is needed is a clear pathway for environmental agencies to engage in biosecurity policy setting that identifies priorities, identifies the most efficient point to fund incursions or infestations and addresses the knowledge gaps that exist in current systems. The report cites: ‘In its submission to the IGAB Review, the Invasive Species Council drew the Review Panel’s attention to their view of the level of preparedness in agricultural biosecurity compared with environmental biosecurity (refer Table 3, compiled in 2015), highlighting limited systematic surveillance for environmental biosecurity and few early detection and rapid response plans.’ NSW sees this as partly true, however notes the recent examples of where RIFA and Bellingen River Turtle deaths were handled effectively in NSW (winning an Invasive Species Council award for the RIFA response). In both cases, there was a joint response involving staff and resources from both DPI and NSW environmental agencies. NSW suggests that there is a need to examine methods for more effective surveillance and increased community participation in surveillance activity.

## Information sharing

NSW supports the importance of information sharing in both the sharing of technical information as well as the sharing of information relating to governance and decision making.

NSW is of the view that currently jurisdictions are able to share information easily and the availability of data relating to pests and disease has not limited the effectiveness of the NEBRA. Information such as risk assessments and cost benefit reports are also shared between NEBRA signatories and sharing of previously developed information has been used in developing supporting



material for responses. An example of this is the use of the Queensland RIFA risk assessment for the Port Botany RIFA outbreak.

The National Biosecurity Information Governance Expert Group (NBIGEG) is working to agree on a data sharing protocol to augment the Nation Biosecurity Information Governance Agreement (NBIGA) and NSW is a member of that group. NSW has arrangements and systems in place to capture, store and disseminate data to other response partners and to stakeholders. The IGAB Review Draft Report identifies information sharing between jurisdictions and other stakeholders as an area to be improved and NEBRA stakeholders have identified similar views in their engagement in this review. NSW is supportive of better communication and engagement practices to disseminate decision processes and determinations – particularly in relation to why responses are managed through NEBRA or not. There is a degree of uncertainty held by stakeholders about how decisions are made and better understanding will contribute to improved engagement and support by non-government stakeholders in the NEBRA process.

## Preparedness

NSW believes that effective environmental biosecurity response arrangements are in place. The recent RIFA and Bellingen Turtle responses were timely and efficient in mobilising community and agency involvement for positive outcomes. Where NSW believes the NEBRA could be improved is in regards to preparedness and surveillance. Environmental pests and diseases are not often identified quickly as the outbreaks can be in isolated areas with wide spatial spread, particularly in relation to plant disease and pests. Environmental agencies are not resourced to have a large surveillance presence and depend in many cases on community members reporting outbreaks. There is a significant risk that pests and diseases have spread widely by the time they are identified and that seed banks or breeding adults have established leading to issues about effective eradication versus containment. The development of priority pest and disease identification material and its dissemination through social media is a recognised way of dealing with this issue, however it can be resource intensive. Increased engagement with community stakeholders and the training of targeted groups (such as bush walkers and land care organisations) is also an important risk management process. The option of engaging specific non-government organisations (NGOs) as future signatories of NEBRA to deliver specific environmental surveillance and related response activity is worthwhile to consider to complement other strategies. Having a range of agreements or MOUs in place with NGOs and other agencies to support jurisdictions is critical in being able to mobilise resources and mount responses. These agreements can also be between small and large jurisdictions (such as between the ACT and NSW).

The previously mentioned peer review process is being trialled to map preparedness in three jurisdictions and NSW believes this is a good methodology to document jurisdictions' preparedness and to provide data for a continuous improvement approach.

## Funding arrangements

NSW regards the mechanisms in NEBRA to determine cost sharing as appropriate, effective and equitable. The calculations used to determine cost sharing based on population and potential

spread are currently robust (but at risk from climate variability) and agreeable to the signatories.

However, an issue in relation to NEBRA cost sharing is the ability to attribute costs to beneficiaries or risk creators under the current structure of the agreement. There is limited scope for contributions other than from jurisdictions as parties to the agreement. Industry and private contributions can be pooled into the funds available for the response (Section 7.9). Some further clarity on how this process can work would be useful. There have been some suggestions that agreements should be developed in advance with potential private beneficiaries, but given the wide scope of the agreement and the complexity of allocating attributions in environmental responses it is not apparent how practical this option would be. The development of new aquatic and weed deeds may alleviate a need to change NEBRA and the impact of the new agreements needs to be understood before changes are contemplated. The only example of private/industry funding contributing to a response is in relation to weeds, when industry contributed to the Red Witch Weed response in Queensland.

NSW does not believe changes to the governance and funding arrangements currently in the NEBRA are required. As a matter of principle, response decision making processes should be inclusive of contributors where costs are attributed to them. There is scope in the review to examine and recommend options available to facilitate a potential change in the governance of the agreement. There are existing opportunities for NGOs to provide advice on decision making that could be better utilised.

## Managing the NEBRA

NSW is supportive of promoting a robust system of monitoring and evaluation for the NEBRA and recognises the need to be able to provide evidence of national biosecurity system improvement; both to support claims for resources and also to provide all stakeholders with information on where success is occurring. NSW continues to endorse jurisdictions using a self-assessment and peer-review process to assess capability. This is seen as necessary to ensure that commitments can and are being met and also to provide evidence to other stakeholders that signatories are meeting their commitments under the deed.

NEBRA has been written to deal with eradication activity only, and there is an opportunity for the review to assess NEBRA against the other national biosecurity deeds for consistency. NSW is supportive of the Review assessing and making recommendations on future options for *transition to management*, but reserves its final position until it is clear what options are available.

NSW is aware that many stakeholders currently struggle with fully understanding of the NEBRA. NSW recommends that the review examines opportunities for improved communication of NEBRA response decisions and their outcomes. NSW also recognises that given the inherent difficulties in surveillance related to the environmental focus of the agreement, that any new approaches or opportunities that the Review can identify for improved engagement and to better manage surveillance would be welcome.