



SUBMISSION

26 September 2023
Mr Nathan Rhodes
Executive Director – Biosecurity
Department of Primary Industries and Regions SA
33 Flemington Street
GLENSIDE SA 5065

Dear Nathan,

Re: Submission to draft Biosecurity Bill 2023

Livestock SA is the peak industry organisation for South Australia's red meat and wool industries. There are over 5,200 sheep producers and more than 2,700 beef cattle producers in the state. With a membership of over 3,500 sheep, beef cattle and goat production businesses, we work to secure a strong and sustainable livestock sector in South Australia.

South Australia's \$4.3 billion livestock industry is a key economic contributor to the state which supports 21,000 South Australian jobs across the red meat and wool industries.

Livestock SA is a member of Primary Producers SA, and the South Australian industry representative body of four national peak industry councils: Sheep Producers Australia, Wool Producers Australia, Cattle Australia and Goat Industry Council of Australia.

Livestock SA welcomes the opportunity to provide feedback on the draft Biosecurity Bill 2023 (Bill), which is important to our members.

Background

Livestock SA notes the Intergovernmental Agreement on Biosecurity (IGAB) has been in place for over a decade. Through this agreement governments have had an agreed strategic direction for our biosecurity system to protect Australia's way of life, which includes our farming systems and natural environment.

We understand that the biosecurity system is becoming increasingly complex, and decisive actions are needed to ensure the system remains fit for purpose. Global and domestic trends in trade and animal production, and exotic disease movement – most recently with Lumpy Skin Disease and Foot and Mouth Disease becoming endemic in Indonesia – demand that we continue to develop more effective and stronger biosecurity legislation and systems to effectively manage animal disease risks.

South Australia is one of the last states to go through the process of implementing a new Biosecurity Act. We support the consolidation of several Acts into a single piece of legislation, provided there is not a loss of important components on these Acts.

We note this will result in the consolidation of three Acts that are critical to the biosecurity framework and regulation of our industry: *Livestock Act 1997*, *Dog Fence Act 1946*, and *Impounding Act 1920*.

Considerable work was undertaken last year to amend the Livestock Act which strengthened powers to act in response to an emergency animal disease. Livestock SA supported the changes made at that time and support the inclusion of these amendments in the Bill recognising the importance of maintaining government's ability to respond as quickly and efficiently as possible to a suspected emergency animal disease outbreak.

The creation and adoption of a new Biosecurity Act must be more than just a consolidation and modification legislative exercise. We consider it presents a unique opportunity to address some long-standing issues for our industry.

Responses to 'Survey – A new Biosecurity Bill for South Australia'

Livestock SA completed the online survey, which enabled a 5-point rating scale to measure levels of stakeholder support for provisions in the draft Bill and provided comments on components of the Bill. These responses are included as Attachment A to this submission.

This submission provides additional feedback that we consider is important to ensuring provisions in the Bill and the subordinate legislation are appropriately targeted and effective.

Shared Responsibility

Livestock SA acknowledges that biosecurity is a shared responsibility among government, industry, and communities. However, this responsibility must be distributed fairly among all participants, risk creators and beneficiaries of the biosecurity system.

Livestock producers in South Australia are highly conscientious and committed to their biosecurity obligations, which play a significant role in supporting state and national biosecurity efforts. They currently invest in biosecurity on four levels:

1. On farm private business investment
2. Contributions to the state Sheep and Cattle Industry Funds
3. Statutory federal levies, which include funding Animal Health Australia
4. General taxation.

The contributions of South Australian livestock producers to the state's biosecurity must be duly recognised. It is essential that the process of implementing a new Biosecurity Bill delivers equity across agricultural industries, and other industries that benefit from strong biosecurity systems start sharing the responsibility for maintaining South Australia's biosecurity status. For example, South Australia's tourism industry is a major beneficiary of a strong biosecurity system and travellers pose a significant biosecurity risk, yet there are no formal biosecurity structures or funding mechanisms in place for the tourism sector. As of March 2023, this industry was worth a record-high \$9.4 billion and is striving to be worth \$12.8 billion by 2030¹.

¹ South Australian Tourism Commission: <https://tourism.sa.gov.au/about/what-we-do>

Through the Bill process we also need to clearly identify risk creators and put systems in place that ensure they are adequately supporting the system as there is a tendency to focus on beneficiaries only.

We have become increasingly concerned with government, particularly the Federal Government, running a narrative that the beneficiaries of the biosecurity system should pay more when agricultural industries are singled out as the only beneficiaries. For example, the environment is the largest beneficiary of a strong biosecurity system by a considerable margin – the nation’s environmental assets are worth more than \$5.7 trillion² – yet no formal mechanisms exist to capture this ‘beneficiary’. As such, the burden continues to fall disproportionately on primary producers rather than being distributed across all beneficiaries.

General Biosecurity Duty

Livestock SA supports the introduction of the General Biosecurity Duty (GBD) in the Bill, creating consistency with other Biosecurity Acts. The GBD highlights the concept of biosecurity as a shared responsibility that must include everyone and is an integral element of contemporary Biosecurity Acts in Australia.

Government must properly articulate, educate, apply and enforce the GBD. Other states that have already implemented Biosecurity Acts have had limited success in this regard. Success will require considerable education and sustained effort to regulate compliance, as in our experience many sectors outside agriculture still consider biosecurity is ‘agricultural issue’ and continue to act accordingly.

We understand that the GBD will be legally enforceable, and non-compliance will be an offence. Critical to the success of the GBD will be clearly articulating the approach for determining, assessing and enforcing the legal requirement of any person’s awareness, or ‘reasonable awareness’, that a biosecurity risk exists and as far as ‘reasonably practical’, mitigation, elimination or reduction of that risk. This concept will require proper consultation with the livestock industry, and it cannot be tokenistic for other sectors of the economy or communities.

Compensation/reimbursement

Livestock SA supports, in accordance with Emergency Animal Disease Response Agreement (EADRA), the continuation of compensation provisions carried over from the Livestock Act. This provides compensation to be paid under the cost sharing arrangement guidelines. The compensation arrangements for cost-sharing agreements such as EADRA are outlined more clearly under the Bill than the Livestock Act. However, there is a need to ensure that this mechanism is activated by the State Government during a response under EADRA and that impacted producers are eligible to receive the compensation and reimbursements they are entitled to.

We also support the Bill’s ability to provide reimbursement and compensation under other agreed government programs not covered by agreements such as EADRA. South Australia is free of pests and diseases that may be present in other states and their detection here, although not covered by EADRA, may pose a significant financial burden on affected producers. In this incidence, compensation and reimbursement arrangements may be warranted and to be effective, consultation with affected industries would be important to ensure arrangements are fair.

² Department of Agriculture: <https://www.agriculture.gov.au/sites/default/files/documents/commonwealth-biosecurity-2030.pdf>

We therefore oppose the Bill not compensating producers' losses of production and profit. We understand that other cost sharing agreements, such as EADRA do not cover these costs, however, state-based reimbursement schemes will allow for these costs to be considered under reimbursement arrangements. Loss of high value animals may be a significant cost to producers and considering a commensurate compensation method for this loss would help affected producers recover and encourage reporting of suspected diseases without the barrier of potential lost income.

Livestock SA recommends a review of the compensation mechanism in place under the Primary Industry Funding Scheme (Cattle Industry Fund) Regulations 2015 to provide greater clarity of these arrangements. Currently, the Cattle Industry Fund can provide the owner of cattle destroyed for the purposes of controlling or eradicating a disease in accordance with the Livestock Act to claim compensation, but the process and value is ambiguous. Money acquired through the Cattle (and Sheep) Industry Funds are voluntary contributions, which limit the way this money can legitimately be allocated. The introduction of a new Biosecurity Act is an opportunity to ensure all regulations and other subordinate legislation, or guidelines provide producers with clear guidance on when compensation will be paid, how it will be calculated, and where the funding will be sourced from.

Extraterritorial powers

We note the Bill proposes to have 'extraterritorial' application, so that provisions could potentially be enforced outside of South Australia. This would allow for compliance measures against interstate activities which pose a biosecurity risk to the state. We also understand that this will be applied reciprocally to South Australia by other jurisdictions. For livestock producers, the obvious areas that will come into effect are online sales as it grows in popularity for trading livestock.

Livestock SA supports this approach. Biosecurity threats do not observe 'jurisdictional lines on maps'. Other factors that need to be considered by government and industry are the implications on endemic disease management programs, additional funding that will be required to accommodate compliance demands in other jurisdictions, and potentially through the authorisation of others to act on biosecurity issues.

Funding, fees and charges

The introduction of the GBD necessitates a full review of the way that State Government biosecurity activities have been funded in the past to ensure there is equitable contribution to the system which protects the way of life for all South Australians. Biosecurity obligations include identifying and acknowledging individual risk creation, and all options should be on in the table for discussion to realise an appropriate level of sustainable funding for the biosecurity system that will operate under a new legislative framework.

The agricultural sector, particularly the South Australian livestock industry, currently bears a disproportionate financial and labour burden for biosecurity compared to beneficiary industries and other states.

Expanding further on the four levels of biosecurity investment outlined above, through the Sheep Industry Fund, South Australian producers currently contribute over \$2 million annually towards biosecurity activities, which equates to 49% of the available industry funds. Similarly, through the Cattle Industry Fund, producers contribute 37% of total available funds towards biosecurity activities. This investment includes funding over 50% of the total cost of the state's livestock traceability through NLIS (National Livestock Identification System). In other states this regulatory activity is fully funded by government. As such, the current arrangements put South Australian sheep and cattle producers on an uneven playing field with their state counterparts.

Furthermore, as part of the 2023-24 Federal Budget, the Australian Government announced it would apply a new 'Biosecurity Protection Levy' to all producers from 1 July 2024, which is intended to collect around \$50 million per year. These additional contributions amount to an extra 10% on top of the existing federal levy for producers. Livestock SA does not support the current proposal from the Australia Government and will make a separate submission to this new tax.

The long-term decline in relative government resourcing for livestock biosecurity in South Australia must also be addressed. The success of biosecurity is compliance, and resources must be available for the necessary compliance activities. Livestock SA understands that penalties for biosecurity prosecution in the state are not enforced for livestock producers, specifically for the NLIS program, largely due to a lack of investment and resourcing. Again, this is not a cost that should automatically fall to industry.

Detering and better managing biosecurity risk from trespassers

The introduction of a new Biosecurity Act also provides a unique opportunity to implement additional and strengthened powers to minimise the biosecurity risks for livestock producers posed by unlawful entry by trespassers.

New South Wales, Queensland and Victoria have all made recent amendments to their biosecurity legislation to more directly address the biosecurity risks associated with unauthorised entry into places where animals are kept, including by animal activists. These amendments have also enabled swift enforcement action to be taken in response to these risks. Livestock SA seeks the inclusion of similar provisions in the Bill.

The *Summary Offences Act 1953*, which enforces trespass in South Australia is inadequate. Currently if the premises are primary production premises, a maximum penalty of up to \$5,000 or imprisonment for six months is enforceable.

By comparison, from August 2019 in NSW, people entering areas where a Biosecurity Management Plan applies must comply with the measures outlined in the plan. Failure to comply with these arrangements when dealing with biosecurity matter, such as animals or produce, may be an offence under the *Biosecurity Act 2015 (NSW)*. Penalties can include an on the spot fine of \$1,000 or a court ordered fine of \$220,000 for individuals and \$440,000 for corporations.

From October 2022 in Victoria, new laws allow livestock owners to voluntarily establish extra biosecurity measures on their properties, to protect them from trespassers. Changes to relevant legislation have introduced offences for non-compliance with prescribed biosecurity measures, including entering agricultural premises without consent. Offenders face on-the-spot fines of \$1,294 for individuals and \$8,321 for organisations. Further penalties of up to \$11,095 for individuals and \$55,476 for organisations could apply for more serious offending.

Livestock producers' livelihoods depend on the biosecurity of their animals, plants and environment and they contribute substantial financial and labour resourcing to protect their businesses. They will also incur substantial financial and labour resourcing to combat biosecurity outbreaks. The increasing threat of biosecurity risks requires stronger legislation to ensure the state has the right mechanisms in place to deter and prosecute trespassers unlawfully entering a property and placing that business, industry and the broader system in jeopardy.

Livestock SA will support government to explore a strategy similar to other states that carry appropriate penalties to enhance the biosecurity protections for livestock producers.

Livestock SA appreciates the opportunity to provide feedback on the Bill. We look forward to ongoing consultation on the Bill and the development of the subsequent regulations. Please contact the Livestock SA office on (08) 8297 2299 or via admin@livestocksa.org.au if you would like to discuss this submission further.

Yours sincerely

Travis Tobin
Chief Executive Officer