

# *Statutory Review of the Biosecurity Act 2015*

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# Executive summary

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The *Biosecurity Act 2015* (the Act) commenced on 1 July 2017, replacing (wholly or in part) 14 separate pieces of biosecurity-related legislation. The Act sought to provide new flexible and responsive legislative arrangements for biosecurity management in New South Wales (NSW). The Act's primary object is to protect the NSW economy, environment and community from pests, diseases, weeds, and contaminants.

Section 406 of the Act requires the Minister to review the Act as soon as possible after five years from its commencement and table a report in Parliament within 12 months following the five-year period.

The scope of the Review was to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. To inform the review the following pieces of work were undertaken:

- an independent attitudinal and awareness study (2022 Attitudinal Research)
- desktop research analysing other jurisdictions' biosecurity frameworks
- consideration of current and emerging biosecurity risks
- discussion paper released to support public consultation, and
- targeted consultation with key stakeholders, industry, and the broader community.

Findings of the 2022 Attitudinal Research were captured in the [Biosecurity Attitudinal Research Report 2022](#)<sup>1</sup> and indicate that over the last five years the understanding of biosecurity and its importance has increased amongst primary producers and general community.

Throughout the consultation process stakeholders indicated satisfaction with the existing objects and terms of the Act. Government departments commented that the Act provides an effective framework for risk-based decision-making in biosecurity management. Industry stakeholders believe the Act works well with other jurisdictional frameworks and ensures that NSW has the appropriate framework to manage biosecurity incursions.

Nevertheless, the 2022 Attitudinal Research and stakeholder feedback have identified opportunities to further embed behavioural change and improve biosecurity management on land by maximising the use of the current regulatory framework. Stakeholders have also asked for further education, training, and tools to assist in the operation and delivery of biosecurity outcomes.

Biosecurity risks are increasing and outbreaks from exotic incursions are rising in volume, complexity, and severity. All five of the most serious emergency animal diseases have been detected in the Asia-Pacific region over the past five years. The risk of diseases spreading between animals and humans are also on the rise with approximately 60-70% of emerging human infectious diseases being zoonoses originating in domestic or wild animals. New South Wales is bearing an elevated share of the national risk profile as the destination of choice for nearly half of international arrivals, cargo and mailed documents<sup>2</sup>.

The effective management and containment of biosecurity threats is imperative to ensure strong and resilient public health agricultural, economic, and environmental outcomes.

The NSW Government will continue to look for opportunities to ensure the framework is fit for purpose, and to progress key measures to improve and strengthen our biosecurity system, including through the implementation of key initiatives such as an independent Biosecurity Commission to provide direction for

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<sup>1</sup> [www.dpi.nsw.gov.au/biosecurity/community-engagement-and-education/attitudinal-research/2022-biosecurity-attitudinal-research-report](http://www.dpi.nsw.gov.au/biosecurity/community-engagement-and-education/attitudinal-research/2022-biosecurity-attitudinal-research-report)

<sup>2</sup> Australian Government, Department of Agricultural, Fisheries and Forestry, 2022

improved management of pest animal and weed risk on public land, a review of the extent and impact of invasive species, and the establishment of a good neighbour program.

## Findings of the Review

The key finding of the Review was that the policy objectives of the Act, and its supporting legislation remain valid and that the terms of the Act remain appropriate for securing those objectives. The Review has identified nine recommendations that build on outcomes, attitudes, awareness, and understandings of the Act since 2017 to further mature the regulatory framework to ensure it remains fit for purpose and flexible to address current and emerging biosecurity risks in New South Wales.

## Recommendations

The recommendations identified through the Review are grouped into four key themes:

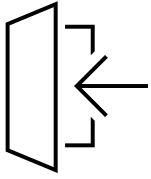
Key theme	Feedback	Recommendations
<b>Education, communications, and training to bolster our shared biosecurity responsibility.</b>	A consistent theme across feedback from stakeholders highlighted the need for better education, training, communication, and tools to mature understanding of biosecurity responsibilities across both the general community, land holders and control authorities.	<ol style="list-style-type: none"> <li>1. Identify options to improve accessibility to biosecurity information relevant to each stakeholder group that will assist them to discharge their biosecurity requirements, including the General Biosecurity Duty.</li> <li>2. Develop a consolidated, comprehensive communication program that seeks to embed biosecurity best practice to activate 'shared responsibility', seeking specific actions from stakeholders including the general community, land holders, industry, control authorities and authorised officers.</li> <li>3. Provide education and training to industry and community stakeholders regarding emergency response protocols, the Act's management tools and hierarchy of the framework to improve emergency response preparedness and biosecurity risk management.</li> </ol>
<b>Biosecurity management practices.</b>	A theme from stakeholder feedback was the need to advance biosecurity risk management of pests and weeds on public and private land. This included strengthening regional strategic pest and weed management plans, addressing uncertainty as to the duties of public and private landowners, clarifying the roles and responsibilities of the regulating authorities, improving compliance and enforcement activities, improving our	<ol style="list-style-type: none"> <li>4. Provide greater clarity of roles and responsibilities by reviewing and considering improvements to policy, communication and working arrangements between authorities responsible for enforcing the requirements of the Act on public and private land.</li> <li>5. Strengthen and embed the adoption and use of Biosecurity Management Plans for biosecurity risk management.</li> </ol>

Key theme	Feedback	Recommendations
	<p>pest and disease detection systems, and expanding the use of biosecurity management plans.</p>	<p>6. Conduct further consultation with authorities, land holders and the community to determine feasible options for improving management of biosecurity risks, including weeds and pest animals.</p>
<p><b>Supporting the administration of the Act.</b></p>	<p>A theme across feedback from stakeholders was the need to support the administration of the Act. This included improving clarity on the operation of different tools, ensuring policies and procedures are up-to-date and appropriate support is provided for stakeholders and authorised officers, and ensuring response capabilities are robust.</p>	<p>7. Review the method for listings of Prohibited matter, Prohibited dealings and Notifiable matter in the Act to ensure they remain flexible and responsive to protecting the New South Wales economy, environment, community and national interests from biosecurity threats.</p> <p>8. Review and consider current and future policy and procedures to improve and support the administration and application of the Act and its subordinate legislation, specifically with the understanding and use of the compliance, management, and operational tools.</p>
<p><b>Sustainable biosecurity system.</b></p>	<p>A theme from stakeholder feedback was the need for a sustainable biosecurity system. Stakeholders raised the need to move away from short-term, specific measures to ongoing resources to support biosecurity management on land, implementation of biosecurity tools, and for Government to extend their capacity and resources to carry out the coordinated activities of surveillance and protection to enhance NSW's biosecurity.</p>	<p>9. Identify options for developing a more sustainable biosecurity system in NSW that supports ongoing management and emergency responses through improved preparedness and prevention measures.</p>

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# 1 Introduction

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## 1.1 Background to the legislation

Strong and effective biosecurity is essential to the continued wellbeing of people in NSW, the prosperity of our economy and communities, the sustainability of our food systems, and the health of our ecosystems.

The Australian economy and primary industries sector are reliant on export market access, with Australia exporting nearly two-thirds of all production. Protecting Australia's access to overseas markets is dependent upon NSW and Australia continuing to be free from many pests, diseases and weeds that impact other countries.

Biosecurity threats are increasing and outbreaks from exotic incursions are rising in volume, complexity, and severity, placing significant pressure on the sustainability of the \$23.1 billion NSW primary industries sector, and social and environmental amenity of the State. Over the past five years, the top five emergency animal diseases are in closer proximity to Australia than ever before, with all being detected in the Asia-Pacific region. The risk of diseases spreading between animals and humans also on the rise with 60-70% of emerging human infectious diseases being zoonoses originating in domestic or wild animals. The effective management and containment of biosecurity threats is a public health, as well as an agricultural, economic, and environmental, imperative.

The regulatory framework for managing biosecurity in NSW aims to:

- prevent the entry of new pests, diseases, and weeds into NSW
- quickly identify, contain, and eradicate any new pests, diseases, and weeds
- implement robust management arrangements to effectively minimise the impacts of endemic pests, diseases, weeds, and contaminants.

The Act commenced on 1 July 2017 in New South Wales with the purpose to provide a proportionate risk-based approach for responding to pests, diseases, weeds, and contaminants, and minimise biosecurity risks. The Act replaced 11 whole Acts and parts of another 3 Acts of biosecurity-related legislation. The Act was introduced to improve biosecurity risk management, bring in the concept of shared responsibility, reduce red tape and simplify existing policies and procedures.

The Act is supported by subordinate legislation which includes the Biosecurity Regulation 2017, Biosecurity (National Livestock Identification System) Regulation 2017 and Biosecurity Order (Permitted Activities) 2019. There are nine key tools for biosecurity risk management under the Act (see **Appendix A** for more information).

## 1.2 Objects of the Act

The primary object of the Act is to:

*“...provide a framework for the prevention, elimination and minimisation of biosecurity risks posed by biosecurity matter, dealing with biosecurity matter, carriers and potential carriers, and other activities that involve biosecurity matter, carriers, or potential carriers.”*

The other objects of the Act are:

- (a) *to promote biosecurity as a shared responsibility between government, industry, and communities,*
- (b) *to provide a framework for the timely and effective management of the following –*
  - (i) *pests, diseases, contaminants, and other biosecurity matter that are economically significant for primary production industries,*
  - (ii) *threats to terrestrial and aquatic environments arising from pests, diseases, contaminants, and other biosecurity matter,*
  - (iii) *public health and safety risks arising from contaminants, non-indigenous animals, bees, weeds, and other biosecurity matter known to contribute to human health problems,*
  - (iv) *pests, diseases, contaminants, and other biosecurity matter that may have an adverse effect on community activities and infrastructure,*
- (c) *to provide a framework for risk-based decision-making in relation to biosecurity,*
- (d) *to give effect to intergovernmental biosecurity agreements to which the State is a party,*
- (e) *to provide the means by which biosecurity requirements in other jurisdictions can be met, so as to maintain market access for industry.*

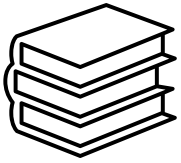


## 2 Terms of Reference

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1. In accordance with section 406 of the Act, the review will examine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
2. The Review will include consideration of the:
  - a. objects of the Act and its operation
  - b. attitudes and awareness of biosecurity of industry and community stakeholders
  - c. results of broad consultation with Government, industry, and community stakeholders.
3. The Review will be guided by the principles of:
  - a. Protecting the industry, community and environment from the risks posed by pests, disease, invasive species, and contaminants.
  - b. Promoting biosecurity as a shared responsibility between government, industry, and the community.
  - c. Improving the understanding and operation of the Act to enhance biosecurity outcomes for the industries and communities of NSW.
4. The Report will make recommendations to improve the operation of the Act. A report on the outcomes of the review is to be tabled in each House of Parliament as soon as possible after the completion of the review, within 12 months after the end of the five-year period.



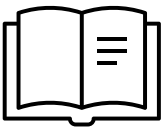


## 3 Undertaking the review

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To inform the review DPI:

- Reviewed other jurisdictions' biosecurity related legislation.
- Procured a study of the attitudes and awareness of biosecurity across industry and community stakeholders to establish any change since commencement of the Act (2022 Attitudinal Research).
- Considered current and emerging biosecurity risks.
- Developed a Discussion Paper to inform consultation and invited comment via the "Have Your Say" and DPI websites between 20 December 2022 and 11 February 2023.
- Undertook targeted consultation with Government, industry, and community stakeholders through:
  - Interviewing and surveying staff across key agencies
  - Conducting webinars with key stakeholders post the release of the Discussion Paper.



## 4 Review findings

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### 4.1 Overview of biosecurity legislation of other jurisdictions

The *Commonwealth Biosecurity Act 2015* focuses on international border controls and preventing inbound biosecurity risks to Australia. In contrast, the States and Territories are responsible for the management of imminent and current biosecurity risks within their jurisdictions.

In 2014, the National Biosecurity Committee (NBC) recommended that States and Territories update and harmonise biosecurity legislation to reduce complexity and ensure emergency management provisions are fit for purpose. NSW and Queensland were at the forefront, each being the first to review and consolidate biosecurity legislation to a single Act. Both States created their legislation similarly centred on the use of a general biosecurity duty and a risk-based management approach. The Queensland Department of Agriculture and Fisheries has recently released the report on the 2019 Review of the Queensland *Biosecurity Act 2014* and found the Act is working well and the concepts are sound.

Several of the findings in the Queensland review were consistent with findings of this review, including around developing the maturity of the understanding of their "duty", the General Biosecurity Obligation, improvements for individual biosecurity plans, and updates to authorised officer training. Recommendations have been made for 22 Act amendments, the majority of which are minor; nine policy recommendations; three communications and research recommendations; five training; and five administration recommendations. Several of these proposed arrangements are

already in place within NSW, such as declaring a beehive as a carrier.

Other states have used learnings from NSW and Queensland's processes whilst reviewing and updating their biosecurity legislation. The Australian Capital Territory has used the NSW Act as a basis for its new legislation and Tasmania has incorporated similar objects to its recently commenced *Biosecurity Act 2019*. South Australia, Western Australia and Victoria are currently reviewing and updating their biosecurity legislation.

On the other side of the Tasman, New Zealand is currently reviewing its *Biosecurity Act 1993* which was a world first when it commenced on 1 October 1993. The review will focus on addressing changing and emerging pressures from the increase in overseas mail, climate change, trade and tourism growth and the impact of established pests. More information on other jurisdictions' legislation can be found at **Appendix B**.

The NSW framework compared to other jurisdictions, remains contemporary and has been used as an example by other jurisdictions to base their legislation on. The Act has been in operation for five years during which time it has effectively supported biosecurity risk management in NSW. The results of the Review will be considered with the view of improving the operation of the Act and to progress the maturing of NSW biosecurity risk management system.

## 4.2 Key Outcomes of 2022 Attitudinal Research

The 2022 Attitudinal Research found that the general community and primary producers rate biosecurity of importance. Since 2017 almost twice as many people in NSW are highly confident that they could act on biosecurity issues, and people with a high understanding of biosecurity have increased by one third. Furthermore, most primary producers felt that both their own business and their industry are more attuned to the issues of biosecurity since 2017. There has been a significant increase in the adoption of biosecurity practices, with nearly seven in every 10 having a biosecurity management plan or industry accreditation plan in place.

Importantly, the general community and primary producers recognised that the responsibility for biosecurity is shared amongst government, industry, and primary producers.

The research found that the general community would like more information about biosecurity as it pertains to their lifestyle and that there is a need for further education of both proactive and reactive biosecurity behaviours of primary producers. Primary producers requesting increased biosecurity surveillance at international borders; increased understanding of biosecurity among hobby farmers, backyard operators, and recreational fishers; and more resourcing to support the primary industry manage biosecurity.

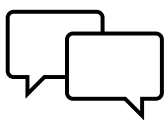
A summary of the 2022 Attitudinal Research findings can be found in **Appendix C**.

## 4.3 Key consultation feedback

Overall stakeholders were positive about the Act and its objectives. Feedback indicated that the existing objects and terms of the Act are sound. Government departments commented that the Act provides an effective framework for risk-based decision-making in biosecurity management however there is more to be done to effectively mature the system. Industry stakeholders believe the Act works well with other jurisdictional frameworks and ensures that NSW has the appropriate framework to manage biosecurity incursions. A report summarising the submissions received from respondents is at **Appendix D**.

A high-level summary of feedback received during the consultation process included:

- uncertainty as to when a biosecurity duty should be discharged, and the actions required by landholders and the authorities with compliance responsibilities.
- need for ongoing education to mature understandings, awareness, attitudes, and actions to further mature the implementation of biosecurity as a shared responsibility and discharging of the General Biosecurity Duty and other legislative requirements within the biosecurity management framework.
- support industry and the community in their ability to respond to, and manage biosecurity risks, consideration should be given to ongoing education and training of emergency response protocols.
- DPI should establish and maintain partnerships with relevant state agencies and industry associations to ensure emergency situations are dealt with appropriately.
- increased levels of government resources are required to support primary industry to manage biosecurity.
- consideration needs to be given to strengthening and embedding the use and upkeep of Biosecurity Management Plans for biosecurity risk management on land, specifically to meet increased pressure with the management of weeds and pest animals.
- the NSW Government should provide increased funding for weed management across NSW and resourcing at the local level is required.
- the tools available to enforce requirements are being used regularly by the authorities with compliance responsibilities under the Act however there are variations in how compliance and enforcement is approached between authorities and the biosecurity risks the subject of regulation.
- there is a lack of flexibility to quickly and efficiently review and amend the listing of Prohibited matter, Prohibited dealings, and Notifications contained within the Act.
- clarification is needed regarding the use of the Act's tools and processes to achieve the objects of the Act, including improving understanding of the General Biosecurity Duty, shared responsibility and embedding good biosecurity practices across the community, industry, and government.



## 5 Discussion of key findings

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The findings of the review can be captured under four key themes. These are discussed below.

### 5.1 Education, communications, and training to bolster our shared biosecurity responsibility

#### 5.1.1 Shared Responsibility and the General Biosecurity Duty

One of the fundamental principles of the Act is to promote biosecurity as a shared responsibility between government, industry, and communities. Shared responsibility recognises the role we all

play to deliver biosecurity outcomes.

Results from the 2022 Attitudinal Research found that since 2017 almost twice as many people in NSW are highly confident that they could act on biosecurity issues, and people with a high understanding of biosecurity have increased by one third. However, while the increased biosecurity awareness is a positive step forward, the concept of shared responsibility was identified as a priority area to further outline roles and responsibilities across all parties, embed learnings and increase biosecurity behaviours and actions of government, industry, and communities.

The 2022 Attitudinal Research also identified that industry regards as the second highest priority “increased awareness/understanding about biosecurity among hobby farmers, backyard operators and recreational fishers” (85% of respondents rated this as a top priority). The risks that these groups pose to biosecurity was also raised within qualitative consultations with commercial primary producers located in the peri-urban area of Sydney.

Shared responsibility can currently be evidenced in our industry codes of practice, regional pest animal and weed management plans and market assurance programs, where risks are jointly managed by government, industry associations and participants, and members of the community. Shared responsibility is also promoted through the application of the various tools within the Act including the General Biosecurity Duty, Mandatory Measures, Biosecurity Management Plans and Accreditation Authorities.

The Review identified that the Act’s provisions for the appointment of an accreditation authority have not yet reached their potential for biosecurity risk management to support the certification of products to enable market access. These provisions will be the subject of further consideration and stakeholder consultation in the future.

Section 22 of the Act, Biosecurity duty – dealings with biosecurity matter and carriers, states:

*“Any person who deals with biosecurity matter or a carrier and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised.”*

The application of the General Biosecurity Duty to the management of a biosecurity risk, provides an opportunity for flexibility and innovation in how a biosecurity risk is managed, for the authority responsible for compliance and the person who must discharge the duty. It is recognised that in many circumstances, the person with the duty is well placed to decide what is reasonably practicable in the circumstances to manage the risk and therefore should have the flexibility to make this decision.

The introduction of the General Biosecurity Duty has provided an alternative to the traditional forms of prescriptive and reactive regulation. The General Biosecurity Duty has been successfully adopted as the primary regulatory method in the management of weeds and pest animals in NSW where it is also supported by Mandatory Measures and Biosecurity Zones, prescribed in the Biosecurity Regulation 2017, Control Orders, a legislative instrument made under the Act, and notification requirements.

Many internal, industry and community stakeholders expressed the view that it was not clear when a person had a duty to discharge and what actions were required to discharge the duty. Authorities and authorised officers tasked with ensuring the duty was discharged also expressed uncertainty as to when and how to undertake enforcement actions.



## 5.1.2 Maintaining a timely and flexible biosecurity response framework

Stakeholders agreed that the Act establishes a framework for risk-based decision-making and provides for timely and effective management of biosecurity risks, with government stakeholders commenting that the Act is particularly effective for emergency management.

The Act contains a range of management tools which enables DPI and other regulatory partner agencies to apply a graduated and proportionate response to biosecurity risks. Industry and Government stakeholders saw the most value in the legislative framework for high-risk situations.

As highlighted in the 2022 Attitudinal Research, primary producers rated their ability to identify (63%) or prevent issues (58%) as high. Based on the qualitative consultations the lower rating primary producers gave for their 'ability to prevent' is driven by the perception that while they can take action to minimise the likelihood of incursions of known weeds, diseases and pests onto their property, the biggest biosecurity threat they face is the introduction to Australia of a previously unknown pest, weed or disease.

The Review respondents proposed greater support for industry and community stakeholders in their ability to respond to and manage biosecurity risks and consideration should be given to ongoing education and training of emergency response protocols through 'mock' scenarios and distribution of resources. Industry stakeholders also raised the need for greater transparency in emergency response processes and risk assessments.

### **Recommendations:**

- 1. Identify options to improve accessibility to biosecurity information relevant to each stakeholder group that will assist them to discharge their biosecurity requirements, including the General Biosecurity Duty.**
- 2. Determine requirements of a consolidated, comprehensive communication program that seeks to embed biosecurity best practice to activate 'shared responsibility' and drive action for stakeholders including the general community, land holders, industry, control authorities and authorised officers, and provides guidance through further education, communications, and training.**
- 3. Provide education and training to industry and community stakeholders regarding emergency response protocols, the Act's management tools and hierarchy of the framework to improve emergency response preparedness and biosecurity risk management.**

## 5.2 Biosecurity management practices

Both internal and external stakeholders raised biosecurity risk management across the state as an area for further improvement. This included strengthening arrangements for the management of weeds and pest animals, addressing uncertainty as to the duties of public and private landowners, improving compliance and enforcement activities, revive regional strategic pest and weeds management plans, and expanding the use of biosecurity management plans to provide a basic level of protection across the State.

### 5.2.1 Discharging biosecurity duties

Conflict from management of pests and weeds arising between neighbours, and public and private landowners remain an area to be addressed. This issue is strongly linked to the need for increased understanding of shared responsibility and embedding good biosecurity practices by landowners to manage pests and weeds on their lands.

Positively, the 2022 Attitudinal Research found that the vast majority of primary producers felt that both their own business and the industry are more attuned to the issues of biosecurity since 2017, with 67% having a biosecurity management plan or industry accreditation plan in place, up from 46% having a biosecurity plan in place in 2017. Additionally, there was a decline in 'do not know what best practise behaviours are' as a barrier to compliance, which reflects the primary producer's ability to manage or respond to biosecurity issues has increased.

While these behaviours are a positive step, as raised in both the 2022 Attitudinal Research and the Review public consultation process, there is still a gap in the wider community in knowing how to discharge their duty effectively. Whilst the implementation of a Biosecurity Management Plan is not mandatory in NSW, they provide businesses with a structured system for controlling risks and recording activities. The 2022 Attitudinal Research found that while uptake of Biosecurity Management Plans had increased, only 42% of primary producers had biosecurity signage at all entry points to premises. Consideration needs to be given to strengthening and embedding the use and upkeep of Biosecurity Management Plans.

Biosecurity Management Plans can be strengthened by broader application and inclusion of the actions required to discharge the general biosecurity duty and/or other regulatory requirements. This would also incorporate biosecurity risk management practises into the operations of the enterprise and help the landholder in the management of specific risks that are present on their land, or they want to prevent moving onto their land. Biosecurity management plans can therefore be an individual response to the management of a biosecurity risk that may or may not be present in the region or the entire country, such as Foot and mouth disease. Stakeholders suggested that consideration be given to mandating Biosecurity Management Plans for the management of certain biosecurity risks across public and private land.

## 5.2.2 Regional Strategic Pest and Weed Management Plans

Each of the eleven NSW Local Land Services regions develops a Regional Strategic Pest and Weed Management Plans (the Plans) subject to the provisions of the *Local Land Services Act 2013*. The Plans identify the region's priority pests and weeds. Those that have been assessed as posing a demonstrable, significant biosecurity risk to that region. The Plans recommend measures landholders should take to prevent a pest or weed from having an adverse impact and assist the landholder to discharge their General Biosecurity Duty.

While stakeholders understand the concept of the Plans, there is an ongoing concern that the Plans are too specific in targeting certain species, and that they do not provide enough weight for effective compliance as they are not a legislated requirement. The Review also identified the need for more consultation and education of both land holders and compliance authorities as to the use and understanding of the General Biosecurity Duty.

For widespread weeds, there will be low to negligible feasibility of coordinated control, with the focus instead on reducing the impacts of priority weed species through developing and promoting targeted control techniques, with investment into research and education/advisory activities. Regulating a small number of priority weeds is the accepted method for minimising external costs caused by weed spread.

While the Plans provide guidance and outline measures for the control and management of pests and weeds and discharging the general biosecurity duty, flexibility remains for landowners in how they undertake action to control and manage pests and weeds. Stakeholders provided comment that issues arise when they fail to meet measures under the Plans, and only minimal actions are taken to discharge their General Biosecurity Duty.

The requirements of the Plans are enforceable when landholders are aware they have a duty to

discharge, and they know what actions they can take to discharge the duty. Further education and training are required of both the authorities responsible for compliance and landholders to revive the Plans and improve biosecurity risk management.

**Recommendations:**

- 4. Provide greater clarity of roles and responsibilities by reviewing and considering improvements to policy, communication and working arrangements between authorities responsible for enforcing the requirements of the Act on public and private land.**
- 5. Strengthen and embed the adoption and use of Biosecurity Management Plans for biosecurity risk management.**
- 6. Conduct further consultation with authorities, land holders and the community to determine feasible options for improving management of biosecurity risks, including weeds and pest animals.**

## **5.3 Supporting the administration of the Act**

### **5.3.1 Prohibited Matter, Prohibited Dealings and Notifiable Matter Listings**

Both internal and external stakeholders raised the need to ensure the species listed on the prohibited matter, prohibited dealings and notifiable matter lists remain contemporary to support our incursion response capabilities. Stakeholders also raised the need for clarification around the process of these listings to ensure they remain flexible and are responsive to changing biosecurity risks.

The need to review and ensure these listings are up to date are crucial in responding to new biosecurity threats or risks and ensuring NSW is meeting its national and international biosecurity obligations.

Other jurisdictions have adopted various approaches to their listings. For example, Tasmania is managing their listings of prohibited matter species through a permitted list system which separates out matter into three categories, prohibited, permitted, and restricted. Listings are by Ministerial declaration which are notified in the Government Gazette. To aid transparency, the Tasmanian *Biosecurity Act 2019* requires publication of a Tasmanian biosecurity compendium on its departmental website which assists in promoting public awareness of biosecurity requirements.

Stakeholder responses during public and targeted consultation support a review of the species listings and clarification of how listings are managed to ensure they remain up to date and appropriate. Consideration should also be given the development of material that supports industry in quickly identifying the requirements in relation to listings, such as an online interactive tool.

### **5.3.2 Management, Compliance and Operational Tools**

There are nine key tools for biosecurity risk management under the Act. The tool, or the combination of tools, used to manage a biosecurity risk are determined according to the biosecurity risk posed by the biosecurity matter or carrier, the desired management outcome or policy objective, and the cost of achieving that outcome. To support the administration of the Act, policies and procedures were developed to support authorised officers and authorities in the management of specific biosecurity risks and the use of the tools of the Act to ensure compliance.

The Review found the majority of respondents were aware of the range of management, compliance and operational tools available under the Act but not all stakeholders were confident in how these

tools are applied and in what circumstances. Authorities with responsibilities for compliance under the Act are using the tools available. However, there are variations in how compliance and enforcement is approached. There are several potential reasons for these differences including the availability of resources, competing priorities and the variables of biosecurity risk management across the state. Industry stakeholders also noted difficulty with the number of instruments required to be reviewed to determine if an activity was permitted or not.

The compliance system under the Act is still maturing and five years after the commencement of the Act, it is appropriate to review the policy and procedures in place to consider how compliance is managed to address biosecurity risk management and to address the needs of authorities and authorised officers.

### 5.3.3 Administrative matters

Stakeholders raised that the Act is operating well but identified several administrative matters that could provide further clarity of the Act and would assist in the maturity of the regulatory framework. These included strengthening authorised officers' seizure and destruction powers, exemption for people dealing with prohibited matter as part of a permitted pest animal incursion program, requiring notification of prohibited dealing, and providing clarification of terminology and functions within the Act.

Stakeholders also proposed several amendments to the Biosecurity (National Livestock Identification System) Regulation 2017 aimed at improving its operation through streamlining movement permits and harmonising with other relevant legislation such as the *Local Land Services Act 2013*. DPI has also been working to improve livestock traceability including the implementation of electronic identification for sheep and goats.

#### *Recommendations:*

7. ***Review the method for listings of Prohibited matter, Prohibited dealings and Notifiable matter in the Act to ensure they remain flexible and responsive to protecting the New South Wales economy, environment, community and national interests from biosecurity threats.***
8. ***Review current policy and procedures of the Act, and its subordinate legislation to improve its administration and application, specifically with the understanding and use of the compliance, management, and operational tools.***

## 5.4 Sustainable biosecurity system

### 5.4.1 Funding and Resourcing for Biosecurity

The 2022 Attitudinal Research identified that "Increased levels of government resources aimed to support primary industry in managing biosecurity" was the third most highly rated priority (84% of respondents rated it as a top priority). Qualitative consultations indicate that the areas in which additional support was most needed related to navigation of regulations and 'red tape' as well as grants to subsidise biosecurity implementation costs, more department advisors such as horticulturists, large animal veterinary practitioners and agronomists.

Some stakeholders raised concerns regarding the need for the Government to extend their capacity and have resources available to carry out the coordinated activities of surveillance and protection to enhance NSW's biosecurity. Authorities also raised concern that there is variation in the availability of resources to assist with implementation of the management, compliance, and operational tools which has impacted on their ability to effectively manage biosecurity risks. Some stakeholders



raised there is a need to find alternative options to resourcing for compliance and enforcement actions. Stakeholders were particularly concerned about ongoing funding for weed and pest management.

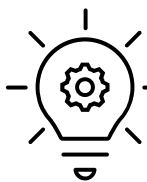
Funding for biosecurity management was increased significantly in the 2022-23 NSW State budget to \$163.9 million in recognition by the Government of the increasing biosecurity risks to the economy, environment and the community from exotic pests and disease, in particular the imminent threats posed by the presence of Foot and Mouth disease and Lumpy skin disease in Indonesia in 2022. However, the Review identified the need to continue to strengthen our partnerships with stakeholders and identify new sources of funding and resources to maintain and improve the management of biosecurity risks, including ensuring resources are available to support the implementation on management, compliance, and operational tools.

## 5.4.2 Maintaining partnerships

A key recommendation of the Audit Office of New South Wales '2019 report *Biosecurity Risk Management* (2019), was for the development of partnerships between key agencies regarding emergency responses. Since then, DPI has implemented partnership agreements with NSW Health, NSW EPA and the NSW Department of Environment, Energy and Science Group, as well as a Memorandum of Understanding with Local Land Services and with Victoria. DPI is also currently considering further cross-border Memorandum of Understanding's with other jurisdictions. Stakeholders in the public and targeted consultation raised the need for DPI to establish and maintain these partnerships to ensure emergency situations are dealt with appropriately.

### *Recommendations:*

9. ***Identify options for developing a more sustainable biosecurity system that supports ongoing management and emergency responses through improved preparedness and prevention measures.***



## 6 Conclusion

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The Review confirmed that the policy objectives of the Act remain valid, and the terms of the Act remain appropriate for securing those objectives. Stakeholder feedback supports this and goes a step further by identifying improvements that can be made to the administration and operation of the biosecurity management framework.

The Review provided an opportunity to consider if the Act was achieving its objectives and the areas to focus on in the future. Overall, the Review identified that over the past five years the Act has been employed to provide for the timely and effective management of biosecurity risks to our animal and plant industries and our environment. This has enabled our industries to grow, protected our environment and supported market access for the products of our agricultural industries.

The Review has also provided an opportunity to consult and re-engage with our stakeholders to learn from their experience with the Act and identify opportunities for further collaboration to improve biosecurity outcomes for the industries and communities of NSW. This included assessing the levels of attitudes, awareness and understanding of biosecurity in the community to enable the identification of future education and training.

The Act has promoted biosecurity as a shared responsibility between government, industry, and our communities. Shared responsibility can be evidenced in our industry codes of practice, regional pest animal and weed management plans and market assurance programs. The development of the General Biosecurity Duty is ongoing and will be critical for achieving the object of shared responsibility.

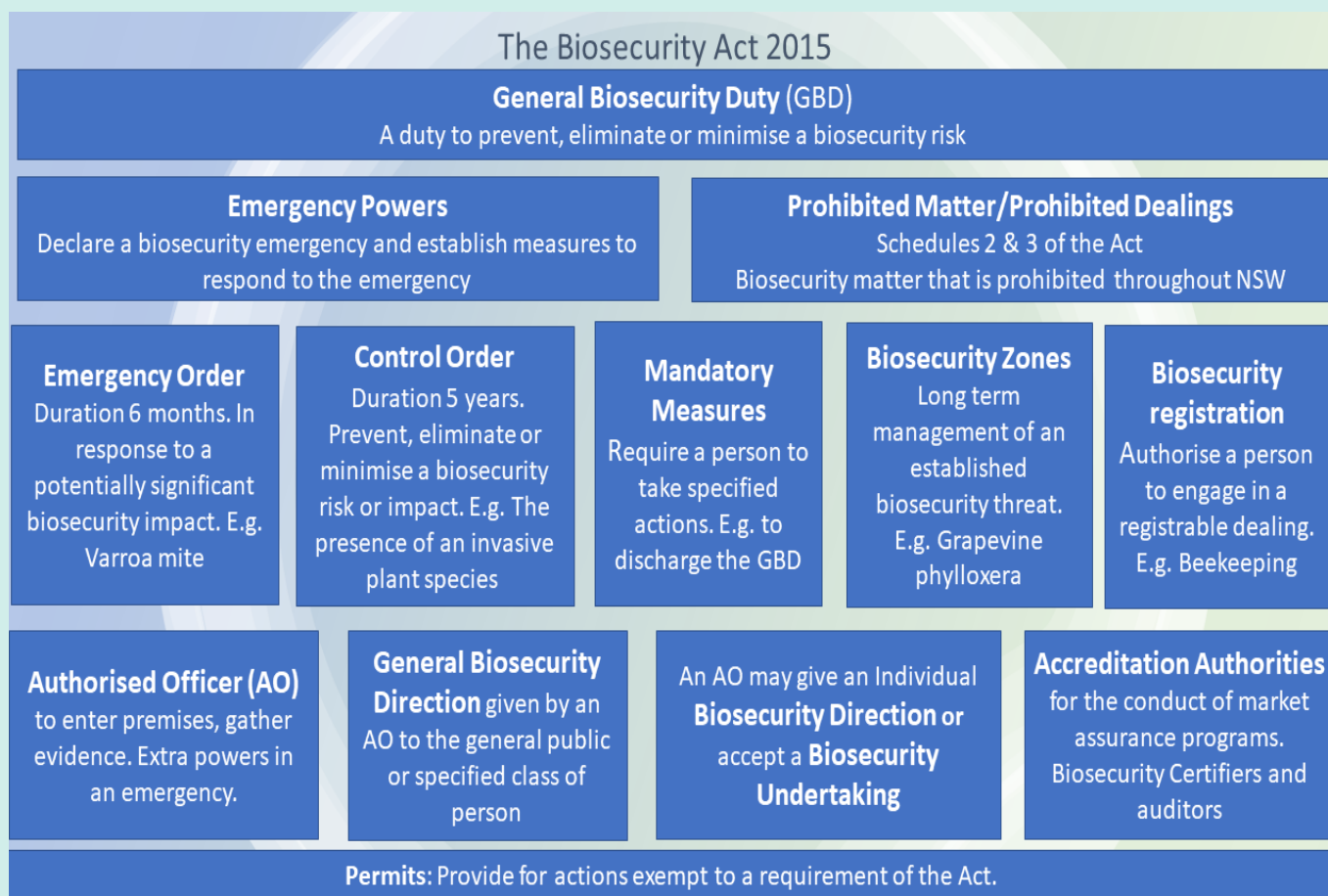
The Review confirmed the Act has given effect to the intergovernmental agreements that NSW is a party to. The provisions of the Act have enabled NSW to provide an appropriate response to several biosecurity emergencies, whilst minimising the impact on trade and our community. This has included ensuring our legislation remains up to date and fit for purpose. The Review has identified opportunities for improving the administration of the Act that should improve our preparedness and response capabilities in the future.

The Act has effectively supported the interstate trade in our agricultural products. Recognising both interstate requirements and certification whilst supporting the operation of our certification arrangements to enable market access.

Finally, the Review has identified that after five years the regulatory framework established under the Act is still maturing. The development and implementation of the Act, which replaced 11 whole Acts and parts of another 3, was a significant undertaking. The introduction of the General Biosecurity Duty and its development as a regulatory method for biosecurity risk management was a change from the previous rules-based legislation. Further education and consultation are required to mature the regulatory framework, including the General Biosecurity Duty which will allow the delivery of a key object of the Act and promote biosecurity as a shared responsibility between government, industry, and communities.

## Appendix A - Biosecurity Act Risk Management Tools

The Act contains nine management tools for providing a response to a biosecurity risk. These include the General Biosecurity Duty, Emergency order, Control Order, Mandatory measures, Biosecurity Zones, Registration, Biosecurity Directions, Biosecurity Undertakings and Permits. Other provisions which support the operation of the Act include the powers of Authorised Officers, Accreditation Authorities, certification, and auditing.



## Appendix B - Jurisdiction review of biosecurity legislation

State/Territory	Biosecurity legislation	Status
ACT	ACT are currently drafting the Biosecurity Bill 2023 which will consolidate their current biosecurity legislation which includes the <a href="#">Animal Diseases Act 2005</a> , <a href="#">Plant Diseases Act 2002</a> and the <a href="#">Pest Plants and Animals Act 2005</a>	At the timing of this report, the ACT is expected to shortly table a Biosecurity Bill 2023 in the Parliament, to streamline biosecurity legislation into a single Act. During the course of its development, the Biosecurity Bill 2023, has considered the interoperability with the NSW biosecurity system, modern biosecurity risk management principles, and national requirements to develop a robust, contemporary legislative framework to support the ACT biosecurity system.
New South Wales	<a href="#">Biosecurity Act 2015</a> NSW Biosecurity and Food Safety Strategy 2022-2030	Several minor and miscellaneous amendments were made to the supporting legislation in 2019, and 2023.
Northern Territory	<a href="#">Livestock Act 2008 and Livestock Regulations 2009</a> : Review of emergency management provisions currently underway with plans to improve emergency response powers given the increased biosecurity threat of an emergency animal disease.  <a href="#">Plant Health Act 2008</a> :  <a href="#">Weeds Management Act 2001</a> :  <a href="#">Territory Parks and Wildlife Conservation Act 1976</a> :	A review of the <a href="#">Livestock Act 2008 and Livestock Regulations 2009</a> commenced late 2021. It is understood following the development of a new <a href="#">Livestock Biosecurity Act</a> , the <a href="#">Plant Health Act</a> is set to be reviewed and likely follow a similar structure to the <a href="#">Livestock Biosecurity Act</a> .
Queensland	<a href="#">Biosecurity Act 2014</a>  Queensland Biosecurity Strategy 2018-2023  <a href="#">Review of the Queensland Biosecurity Act 2014</a>	A statutory review of the Biosecurity Act 2014 was conducted in 2019, outlining 22 Act amendments, and other recommendations to improve policy, communications, research, training, and administration. The Report was released in March 2023.



South Australia	South Australia’s Biosecurity Policy 2020-2023	In 2019, consultation commenced with industry to develop biosecurity legislative requirements into a single Act that builds upon the current system, while incorporating improvements and modern principles, such as shared responsibility, risk-based decision making and proactive management of risks. These deliberations are ongoing.
Victoria	Victoria’s biosecurity legislation is currently the subject of a reform process.	In 2022, public consultation commenced to strengthen the Victorian biosecurity system to manage and minimize environmental damage and economic costs caused by pests and diseases by developing biosecurity legislation into a single Act to respond to changing biosecurity risks and improve the regulatory toolbox for managing risks. Results consultation are under review and will inform next steps in 2023.
Tasmania	<i>Biosecurity Act 2019</i> commenced in November 2022.  <i>Tasmanian Biosecurity Strategy</i>	Tasmania finalised a review and consolidated Tasmanian biosecurity legislation with the commencement of the <a href="#"><i>Biosecurity Act 2019</i></a> and <a href="#"><i>Biosecurity Regulation 2022</i></a> on the 2 November 2022.  The <i>Biosecurity Act 2019</i> replaced seven separate and outdated Acts into a single, modern, ‘fit-for-purpose’ piece of legislation, with supporting Regulations commencing in 2022.
Western Australia	<a href="#"><u><i>Biosecurity and Agriculture Management Act 2007</i></u></a>	Considering escalating threats, changing consumer expectations of the integrity, quality and safety of food and agricultural products, and with new technologies and new ways of thinking – the Western Australian Government is reviewing its regulatory framework. These deliberations are still ongoing, with a report expected to be completed by late 2023.

Commonwealth	<p><i>Biosecurity Act 2015 (Commonwealth)</i></p> <p><i>National Biosecurity Strategy</i></p>	<p>In 2014, NBC recommended that States and Territories update and harmonise biosecurity legislation to reduce complexity and ensure emergency management provisions fit for purpose.</p> <p>In 2022, NBC in consultation with key stakeholders developed a National Biosecurity Strategy (the Strategy), endorsed by Australia’s Agricultural Ministers.</p>
New Zealand	<p><u><i>Biosecurity Act 1993</i></u></p>	<p>The <u><i>Biosecurity Act 1993</i></u> is subject to an overhaul to meet the increasing pressures of: growth and diversity in trade and tourism, increases in the number of packages arriving in NSW through online purchasing, climate change and established pests. A public consultation process was conducted in 2020. The Minister for Primary Industries is currently reviewing the outcomes of these consultations.</p>

## Appendix C - Review of attitudinal research findings

The 2022 NSW Biosecurity Attitudinal Research Program was an independent study to assess the level of biosecurity awareness, attitudes, understanding and behaviours among primary producers and the community in NSW.

### Background:

- In 2017, DPI undertook research with the NSW population to establish benchmark levels of awareness, understanding and behaviours of key audience groups (industry/ primary producers and community) in relation to biosecurity.
- In 2021 DPI engaged Whereto Research to conduct the 2021 NSW Biosecurity Attitudinal Research Program (published in 2022) to obtain updated measures as to current levels of awareness understanding and behaviours, as well as determine whether any change in such measures has occurred since 2017 (and if so, why?).
- The study consisted of a large scale statistically valid survey of NSW residents (n=1,163) and primary producers (n=550), as well as five qualitative case studies covering priority biosecurity focus areas. Namely: metropolitan, regional, and peri-urban areas, aquatic producers, and Aboriginal and Torres Strait Islanders.
- The research identified drivers of emergent changes in perceptions and behaviours among cohorts surveyed prior, while also establishing perceptions and behaviours among cohorts not previously surveyed.
- The research also provided an opportunity for DPI to highlight the results and benefits achieved from the delivery of its programs and projects across the organisation.

### Key achievements include:

- Almost twice as many people in NSW are highly confident, they could act on biosecurity issues in 2021 compared with 2017 and people with a high understanding of biosecurity increased by one third
- Eight in ten (82%) primary producers rate biosecurity as highly important.
- A growing number (67% of farmers compared with 46% in 2017) have a biosecurity management plan or industry accreditation.
- 65% strongly agreed that their industry has increased its focus on biosecurity in the last five years and 60% strongly agreed that their business has increased its focus on biosecurity in the past five years.
- NSW primary producers take biosecurity seriously, with 99% of farmers actively taking steps to eradicate known disease, weeds, and pests.
- 90% of primary producers want increased biosecurity surveillance at international borders
- More than 80% of primary producers believe DPI and Local Land Services play an important role, alongside primary producers, in acting on their responsibility to support biosecure primary industries in NSW.
- The concept of shared responsibility is identified as an urgent priority to further embed leanings and increase biosecurity behaviours and actions.

### Research recommendations:

The research suggests that education is key to confidence and empowerment - primary producers and the community are open to doing more, however, they need to know what to do, why, and how.

# Appendix D - Summary of submissions for the Statutory Review of the *Biosecurity Act 2015*

## D.1 Introduction

This document summarises comments and submissions received during public consultation for the statutory review of the *Biosecurity Act 2015* (the Act) between December 2022 and February 2023.

The Act commenced on 1 July 2017 replacing wholly or in part, 14 separate pieces of biosecurity related legislation. The Act sought to provide innovative flexible and responsive legislative arrangements for biosecurity risk management in NSW. The primary objective of the Act is to provide a framework for the prevention, elimination, and minimisation of biosecurity risks to the environment and community from pests, diseases, weeds, and contaminants. The Act also aims to promote biosecurity as a shared responsibility, provide a framework for: decision making, give effect to intergovernmental biosecurity agreements and ensure market access for industry through providing how requirements in other jurisdictions can be met.

Section 406 of the Act requires the Minister to review the Act as soon as possible after five years from the commencement of the Act, with a report to be tabled in Parliament within 12 months after the end of the period of five years. Feedback from key stakeholders and the community was central to this review.

## D.2 Consultation process

A [Discussion Paper](#) was developed to support public consultation and gain feedback on whether the Act is achieving its stated objects. The Discussion Paper was exhibited on the NSW “Have your Say” and DPI websites with stakeholders invited to make submissions between 20 December 2022 and 11 February 2023.

During the exhibition period, three targeted webinars were held to support key industry and government stakeholders in providing feedback and raising issues. The purpose of these was to support the submission process and garner feedback on the operation and administration of the Act in the field and with other jurisdictions in regard to national harmonisation.

## D.3 Submissions received

A total of 14 submissions were received from stakeholder groups and community members.

Table 1 Number of submissions received for the Review of the *Biosecurity Act 2015*

Submission #	Name of Stakeholder
1	Blue Mountains City Council
2	Cessnock City Council
3	Hornsby Shire Council

4	WaterNSW
5	Animal Care Australia
6	Individual
7	WeeDecideSolutions
8	Private
9	Hawkesbury River County Council
10	Weeds Officers Association Incorporated
11	Local Government NSW
12	NSW Farmers
13	Private
14	Private

#### *D.4 Webinar attendees*

Invitations were sent to the primary administrators and operators of the Act within NSW, those who interact with it cross-jurisdictionally and key industry bodies. There were six organisations represented at the three webinars (see Table 2 for a full list).

**Table 2 Attendees by organisation at webinars**

<b>Webinar</b>	<b>Stakeholder organisation present</b>
1	NSW Farmers
2	Australian Jurisdictions
3	NSW Agencies



## D.5 Summary of key feedback raised during consultation

Throughout consultation stakeholders indicated general support for the current objects and terms of the Act. Issues and suggestions were raised regarding the Act's operation and administration. A summary of the key feedback follows:

1. Education, communications, and training to bolster shared biosecurity responsibility
  - A consistent theme across feedback from stakeholders highlighted the need for better education, training, communication, and tools to mature understanding of biosecurity responsibilities across both the general community, land holders and control authorities.
2. Improve management of biosecurity risk on private and public land
  - A theme from stakeholder feedback was the need to advance biosecurity risk management on public and private land. This included revive regional strategic pest and weed management plans, addressing uncertainty as to the duties of public and private landowners, clarifying the roles and responsibilities of the regulating authorities, improving compliance and enforcement activities, improving our pest and disease detection systems, and expanding the use of biosecurity management plans.
3. Support the administration of the Act.
  - A theme across feedback from stakeholders was the need to support the administration of the Act. This included improving clarity on the operation of different tools, ensuring policies and procedures are up-to-date and appropriate support is provided for stakeholders and authorised officers, and ensuring response capabilities are robust.
4. Sustainable biosecurity system
  - A theme from stakeholder feedback was the need for ongoing, sustainable biosecurity resourcing. Stakeholders raised the need to move away from short-term, specific measures to ongoing resources to support biosecurity management on land, implementation of biosecurity tools, and for Government to extend their capacity and resources to carry out the coordinated activities of surveillance and protection to enhance NSW's biosecurity.

## D.6 Key issues raised in webinars

There was general support for the current objects of the Act. The majority of issues that were raised by stakeholders related to a need for better clarity and communications and education relating to the Act's powers and application on public lands, the implementation of the General Biosecurity Duty and the management of exemptions. One topic discussed in all webinars was the challenge of a sustainable funding model as well as funding and cost recovery for emergency events.

## D.7 Response to key issues raised in webinars

DPI will work to improve clarity and access to information in the following areas:

- **Weed management:** Improve clarity for managing and consent requirements in cases such as permitted prohibited plant materials. Improve access to online content about biosecurity risk of endemic diseases and weeds.
- **Biosecurity duty:** Improve clarity on definition and identification of a threat and generally improve education for small animal holdings of the importance of implementing a biosecurity best practice on their land.
- **Public land:** Clarify the management of biosecurity risks and threats on public land including the Act's powers for animals that are illegally grazing on public land.

- **Landowners:** DPI to review documents and accessibility that clarify management of biosecurity for state significant developments on land used for agricultural and horticultural purposes.

## D.8 Key issues raised in submissions

The issues raised through submissions and the suggested responses are highlighted in Table 3.

**Table 3 Summary of submissions received on the Statutory Review Discussion Paper**

Section of the Act or Statutory Instrument	Summary of comments	Response
<p><i>Question: Comment is sought on whether industry and the community understand what is meant by the General Biosecurity Duty (GBD) and what it means for them to have a responsibility to uphold their GBD</i></p>		
<p>Section 3(1) of the Act</p> <p>Sub-section 3(2)(a) of the Act</p>	<p>Feedback suggests stakeholders, including authorities responsible for ensuring the General Biosecurity Duty (GBD) is discharged, require further support and clarity on when and what actions are required to discharge their GBD, particularly for significant risks. Some examples of instances where this has been difficult include invasive weed management at the local level, and the operation of the regional strategic management plans, particularly between neighbours. The use of “should” as opposed to “must” in Regional Strategic Weed Management Plans has created uncertainty.</p> <p>The comments identified the need for more education and training to improve the application and understanding of the GBD across government, industry, and community.</p>	<p>No amendment of the Act is necessary.</p> <p>Conduct a review of communication materials, education, and targeted policies and procedures required to aid interpretation and application of the GBD.</p>
<p><i>Question: Comment is sought on whether the Act does enough to support the concept of shared responsibility between government, industry, and communities?</i></p> <p><i>Question: Comment if industry and the community understand the concept of shared responsibility and where their individual responsibilities lie?</i></p>		
<p>Sub-section 3(2)(a) of the Act</p>	<p>Shared responsibility as an object of the Act is generally understood feedback suggests the practicality of delivering this is still maturing and that more education and training is required to embed shared responsibility into biosecurity risk management.</p> <p>Respondents identified the need for greater resourcing to provide education regarding:</p> <ul style="list-style-type: none"> <li>• the concept of shared responsibility to allow for cohesion across government, industry, and the community to enable and improve delivery</li> <li>• the actions required by stakeholders to manage certain biosecurity risks</li> </ul>	<p>No amendment of the Act is necessary.</p> <p>Conduct consultation to determine actions that will further the understanding and application of shared responsibility.</p> <p>Determine tools, such as for risk assessment and prioritisation of management efforts at a local scale for weeds and pests, that will assist land managers to meet their requirements.</p> <p>Provide greater clarity of roles and responsibilities with key</p>

	<ul style="list-style-type: none"> <li>greater clarity around roles and responsibilities of all stakeholders and the delegation of responsibilities to different stakeholders, for example to third parties</li> <li>consideration of additional regulatory support, and</li> <li>the role of the General Biosecurity Duty.</li> </ul>	industry and community stakeholders through development of education and communications programs that clarify different roles and responsibilities of government, industry, and the community.
<p><b>Question:</b> Comment is sought from stakeholders if they understand the purpose of the Biosecurity Regulation 2017 and if they know how to use the Biosecurity Regulation 2017 to find relevant information for their industry?</p>		
The Regulation	<p>Respondents generally understood the purpose of the <i>Biosecurity Regulation 2017</i> (the Regulation) and how to use it, however opportunities to improve knowledge were identified. Respondents identified the need for Local Control Authorities to have equal access to resources and training, and knowledge levels across industry could be improved in areas such as the operation of mandatory measures.</p> <p>Some respondents identified that the Regulation could be amended to include provisions specifying fees for cost recovery, supporting the implementation of the Act.</p>	<p>Consider policy options to impose consequences for risk creators, e.g., by implementing fees and charges for biosecurity directions and undertakings, as currently outlined in the Act.</p> <p>Develop education and communications programs to improve understanding and enhance adherence to requirements under the Regulation.</p> <p>Consider further policy and procedure development to aid application of the legislation.</p>
Division 12 of the Regulation	<p>The possibility of applying Biosecurity Management Plans to public lands, such as bushland reserves was raised.</p> <p>Other respondents noted the need for regular updating of biosecurity management plans, and further communications and promotion through the DPI and LLS.</p>	Review application of Biosecurity Management Plans with consideration to improved education, communications, and tools to promote their uptake, their evaluation and review and their potential application to public and private lands.
<p><b>Question:</b> Comment is sought if industry and community are aware of the range of compliance, management, and operational tools available to DPI to manage biosecurity risks?</p>		
Sub-section 3(1) of the Act	Respondents stated the need for more education and training in the use of the tools of the Act, in particular their interaction with one another. They suggested a more concise explanation of the tools to improve understanding and consistency in application.	No amendment to the Act is necessary.
Sub-section 3(2)(b) of the Act	More information was required in the use and understanding of Biosecurity Zones and their duration, the General Biosecurity Duty (particularly invasive weed control) and the use of Biosecurity Directions and Undertakings by authorised officers. Clarity is also required about access to land for non-agricultural purposes, the definition of	<p>Consider further education opportunities for public and private land management, particularly with local control authorities and the community on the tools available under the Act for the management of biosecurity risks.</p> <p>Consider development of further policy and procedures to support understanding of the tools, and</p>

	<p>'residential premises' and what is reasonably practicable in given circumstances.</p> <p>Stakeholders requested government consider extending compliance and operational capacity and be decisive in the facilitation and coordination of biosecurity risk management activities.</p> <p>To ensure effective resourcing for use of tools, there was a suggestion for the creation of a legislated fund to help support LCA compliance and enforcement under the Act.</p> <p>To support the extension of compliance and resourcing, there was a suggestion to create a dedicated fund.</p>	<p>ensure resourcing is adequate for implementing the tools.</p>
<p><b>Question:</b> Comment is sought on whether the Act provides an appropriate framework for the timely and effective management of biosecurity threats and risks?</p>		
<p>Sub section 3(2)(b)</p>	<p>Respondents believed the provisions of the Act were sound for enabling timely and effective management of threats and risks, however they indicated some issues with the operation of the Act.</p> <p>This included uncertainty around the eligibility of compensation, biosecurity breach protocols, and the application and enforceability of regional strategic plans for invasive pest and weed management. Clarification of the roles and responsibilities of regulating authorities, such as LCAs and LLS for weed management was requested.</p> <p>Assistance to determine the need for action when a lower-level risk is impacting locally was highlighted. A risk assessment tool for invasive pests was suggested to assist land managers to determine management actions regarding pests on a local scale.</p> <p>Some respondents felt greater clarification is required of roles and responsibilities and delegations under the Act for DPI, LLS, primary producers, and Local Control Authorities.</p> <p>One respondent also identified the need for improvements in pest and disease detections systems citing delays in the detection of Japanese Encephalitis as an example, and inconsistent enforcement on public land of established weeds, i.e., blackberry.</p>	<p>No amendment of the Act required.</p> <p>Review and consider improvements to communication and working arrangements between authorities responsible for enforcing the requirements of the Act to clarify roles and responsibilities.</p> <p>Develop and implement further education of enforcement authorities and their Authorised Officers on the conduct of risk assessments for pests and weeds and the use of the tools available under the Act.</p>
<p><b>Question:</b> Comment is sought on whether the Act provides an effective framework which enables risk-based decision-making in relation to biosecurity?</p>		
<p>Section 13 of Act</p>	<p>Respondents sought further clarity and guidance around risk-based decision making. In particular:</p>	<p>Conduct further consultation to assist the development of further education and guidance tools for authorities, authorised officers and the community to aid</p>

	<ul style="list-style-type: none"> <li>the criteria and logic regarding listings for prohibited matter, prohibited dealings and notifications</li> <li>if risk assessments are conducted what processes for review and amendment by industry and other key stakeholders exist</li> <li>the management in low-risk situations i.e., established invasive weeds and wide-spread pest animals with potential adverse impacts on the community</li> <li>the complexity of “priority weeds” listings and the enforceability of the regional management plans within the framework.</li> </ul>	understanding and implementation to support the ongoing maturation of the risk-based decision-making framework under the Act.
<p><b>Question:</b> Comment is sought from stakeholders if they understand the purpose of the Biosecurity Order (Permitted Activities) 2019 (BOPA) and if it clearly outlines requirements for their industry?</p> <p><b>Question:</b> Comment is sought from stakeholders if they understand how the Biosecurity Order (Permitted Activities) 2019 (BOPA) interacts with the Act and the Regulation for their industry?</p>		
Biosecurity Order (Permitted Activities) 2019	<p>Respondents reported that knowledge of the BOPA is generally good however it could be enhanced with further training. It was identified that the BOPA could be improved to strengthen the prevention of the spread of Parthenium weed from Queensland by building on existing practices to check <i>all</i> vehicles entering the state from Queensland, as it can be transferred through regular vehicles, hay, and stock feed. Clarification is sought as to the current powers in the Act for authorised officers to stop and search vehicles which are currently included within the powers to enter premises.</p> <p>It was suggested that section 102(2) could explicitly state that an authorised officer has the power to stop a vehicle for an authorised purpose. Noting that the Act’s current definition of “premises” includes a vehicle. Amend section 96(2) to create an offence for failing to comply with an authorised officer’s request to provide proof of a person’s name and address “without a reasonable excuse”.</p>	<p>Determine opportunities for enhanced communication of the BOPA and its place in the biosecurity framework to improve accessibility and knowledge, i.e., development of a searchable online manual.</p> <p>Consideration will be given to the need to clarify the power of authorised officers to stop and search vehicles.</p>
<p><b>Question:</b> Comment is sought from stakeholders if they understand the purpose and obligations under the Biosecurity (National Livestock Identification System) Regulation 2017 (the NLIS Regulation) for their industry with regards to the NLIS?</p> <p><b>Question:</b> Comment is sought from industry and the community as to how livestock traceability might be further enhanced in NSW?</p>		
Biosecurity (National Livestock Identification)	<p>Respondents stated that the operation of the NLIS Regulation is working, however there are certain areas that could be improved. One respondent identified the need for the use of “plain English” guidance and clarification is</p>	<p>Consideration will be given to options to enhance adoption and operation through increased education of stakeholders is required regarding the NLIS and</p>



System) Regulation 2017	<p>required around who can complete a National Vendor Declaration and recommended the formation of a dedicated NLIS education, compliance, and education team.</p> <p>It was identified that an opportunity exists to increase stakeholders' understanding of the purpose and obligations under the NLIS for their industry. Whilst an awareness for NLIS requirements exists within livestock industries, there is limited knowledge on how this Regulation operates.</p> <p>Stakeholders noted confusion due to separate but concurrent requirements under the <i>Biosecurity (National Livestock Identification System) Regulation 2017</i> and <i>Local Land Services Act 2013</i>, and suggested simplification of these legislative arrangements for the identification of transported stock.</p>	its operation and the potential benefits to the livestock industries of NSW.
<p><b>Question:</b> Comment is sought as to whether the Act sufficiently meets requirements and gives effect to intergovernmental biosecurity agreements?</p>		
Section 3 (2) (d) of the Act	<p>Respondents indicated that overall, the provisions of the Act give effect to intergovernmental biosecurity agreements and there are strong formal agreements in place with our national partners. However, it was mentioned that this could be more effective if this was the subject of dedicated resources.</p>	<p>No amendments of the Act required.</p> <p>The provisions of the Act have been tested and proved to be effective for enabling a response consistent with the intergovernmental biosecurity agreements.</p> <p>Consider options for sustainable biosecurity funding that supports biosecurity responses.</p>
<p><b>Question:</b> Comment is sought on whether the Act provides an effective framework for responding to biosecurity incidents?</p>		
	<p>Respondents identified that the framework is effective for responding to biosecurity incidents. However, they believe further work is needed to support the most effective use of the framework for responding to biosecurity incidents relating to invasive weed management. Respondents stated the need for further education to support decision making when responding to biosecurity incidents.</p>	<p>Determine further supporting information to effectively explain the framework to those responsible for responding to biosecurity incidents.</p>
<p><b>Question:</b> Comment is sought on whether the Act provides the means by which biosecurity requirements in other jurisdictions can be met, so as to maintain market access for industry?</p>		
The Act	<p>Respondents noted that the provisions of the Act recognise the requirements other jurisdictions. It was recommended undertaking biosecurity preparedness exercises; disaster response impact assessments and recovery advisory services can ensure market access is maintained. Clarification and confirmation on the roles and responsibilities between states and governments in events where biosecurity is</p>	<p>The Act provides for the recognition and protection of the legal status of biosecurity certificates and biosecurity certifiers which are essential for the conduct of trade both interstate and within NSW. To recognise our role in maintaining market access, NSW will continue to engage with other jurisdictions</p>

	compromised cross-jurisdictionally would be welcomed.	through biosecurity preparedness exercises and responses to ensure clarity of roles and responsibilities between jurisdictions.
<b>Question:</b> Comment is sought as to whether or not the current listings for prohibited matter, prohibited dealings and registrable dealings should be reviewed?		
Schedules 2, 3 and 4 of the Act	<p>Respondents supported a review of the current listings. Respondents sought clarity on the criteria and logic of the prohibited matter, prohibited dealings and registrable dealings, and notification listings, processes for their review and opportunities to improve their responsiveness through ease of access to information. Following a prompt in the discussion paper, some respondents suggested that the Tasmanian model may be useful as a reference when reviewing the way species are listed.</p> <p>It was noted that whilst a review would be beneficial, removing invasive weeds that are deemed too difficult to control would defeat the purposes of the legislation and send the wrong message.</p>	<p>Consider the adoption of a formal and regular review process of the current listings for prohibited matter, prohibited dealings and registrable dealings.</p> <p>The current arrangements for the identification of prohibited matter for the purposes of the Act will be reviewed with the aim of improving administration.</p>
<b>Question:</b> Comment is sought as to whether or not the current approach to species listing is working well in NSW, or if NSW should consider adopting an alternative approach to species listing?		
Schedules 2, 3 and 4 of the Act	<p>Respondents noted the species listings were working however further clarity was needed on the process for listing a species and how the risks were assessed. Some respondents identified issues with the current approach to species listing within the Regional Strategic Weed Management Plans and felt that it is not working, and more guidance on the process was required.</p> <p>It was noted that the management of priority weeds under the GBD has made compliance difficult due to the individual discretion in relation to management through the use of “should” in guidance material. It was suggested that legislating RSWMPs may strengthen Local Control Authorities compliance ability by providing direct guidance as to what Best Practice Management for that invasive weed is and must be undertaken.</p>	<p>No amendment of the Act required now however there will be further consultation and consideration of proposals to improve the administration of species listings under the Act, including how other jurisdictions approach species listings.</p> <p>Consideration to be given for guidance material on the process for species listings including criteria for listings, process for determining risk, and reviewing the risks.</p>
<b>Question:</b> Comment is sought if DPI should strengthen its powers under the Act by including a new requirement in the Act for notification of prohibited dealings?		
Section 30 of the Act	Respondents agreed DPI should strengthen its powers under the Act by including a new requirement for notification of prohibited dealings.	No amendment of the Act required however this proposal will be the subject of future consideration and consultation.

<p><b>Question:</b> Comment is sought to exempt people from committing an offence if they are dealing with prohibited matter as part of a ‘permitted pest animal incursion program’?</p>		
<p>Schedule 3 Part 1(1) of the Act</p>	<p>There was agreement from respondents to exempt people from committing an offence if they are dealing with prohibited matter as part of a ‘permitted pest animal incursion program’. However, it was noted that appropriate risk profiling should be undertaken on the use of the prohibited matter - in particular the potential impacts on market access and the biosecurity risk for all industries affected should be scrutinised. Information on permitted pest animal incursion programs and their structure would be welcomed by respondents.</p>	<p>No amendment of the Act required however further consideration will be given to how and in what circumstances this exemption would be appropriate.</p>
<p><b>Question:</b> Comment is sought from industry and the community if they support proposed amendments to the Act which enable authorised officers to more effectively carry out their roles with regards to seizure and destruction of things?</p>		
<p>Sections 102, 110 and 114 of the Act</p>	<p>The proposal to consider amendments to the Act to enable authorised officers to more effectively carry out their roles with regards to seizure and destruction of things is supported by respondents. One respondent expressed concerns about the level of authority given to authorised officers in such situations and sought a higher level of training for authorised officers to address this. It was also suggested that a wider level of professional input and oversight by third parties be utilised when decisions on the seizure and destruction of things are to be made.</p>	<p>DPI has developed a procedure for authorised officers to enable them to exercise their powers when required in a manner which is reasonable, consistent with the powers in the Act and ensures effective biosecurity risk management. The procedure and the provisions of the Act that enable the seizure and destruction of things will be reviewed to identify what changes may be required to ensure this delicate but essential function of authorised officers can be exercised more efficiently.</p>
<p><b>Question:</b> Comment is sought from industry and the community if there any other issues relevant to the objectives of review that should be considered?</p>		
	<p>Respondents provided suggestions for improvement and enhancement of the legislation and supporting policies, including:</p> <ul style="list-style-type: none"> <li>• The ‘reasonable excuse’ defence provided at section 139 of the Act was raised to be contrary to effective enforcement.</li> <li>• Consideration of attaching the General Biosecurity Duty to a person rather than the land.</li> <li>• Addition of provisions to enable Local Control Authorities to undertake pre-purchase weed inspections for State-listed priority weeds, and that the Regulations specify a relevant fee.</li> </ul>	<p>No Act amendments required however these suggestions will inform consultation and further enhancement of the operation of the legislation.</p> <p>Develop policy and procedure, with authorised officer input, regarding the ‘reasonable excuse’ defence to assist enforcement of requirements under the Act.</p> <p>Provide further education, processes, and policies for authorised officers to aid their interpretation and application of the Act, and associated decision making.</p>

	<ul style="list-style-type: none"> <li>• Development of a NSW definition for the term 'appropriate level of protection' (ALOP) to enable members of the community and industry to be educated on the facets of ALOP and what is required to ensure that it is met, and that biosecurity risks are reduced.</li> <li>• To better incorporate biosecurity considerations into the planning system, it was suggested that training material could be developed for council development planners on the role of the biosecurity legislation in environmental assessment, and standard development conditions relating to biosecurity could be included on the planning e-portal</li> </ul>	<p>Promote the <i>Managing biosecurity risks in land use planning and development guide</i>.</p>
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