TABLES 20/3/1 By LEADER and Milhos /



Response to the Legislative Council Government Administration Sub-Committee "B" Report on Blueberry Rust in Tasmania

March 2019

Background

In 2014 and 2016, Blueberry Rust incursions in Tasmania were detected. In both cases, Biosecurity Tasmania commenced plant biosecurity emergency responses consistent with the nationally recognised Biosecurity Incident Management System developed by the then Australian Government's Department of Agriculture, Fisheries and Forestry (now the Department of Agriculture and Water Resources).

In September 2017 the Legislative Council Government Administration Committee "B" resolved that a Sub-Committee be formed to conduct an inquiry into Blueberry Rust in Tasmania. The final report from the inquiry was brought down on Wednesday 19 September 2018, making 10 recommendations.

Government Response to Recommendations

Overview

The Government formed Biosecurity Tasmania in 2014 to put in place a strategic and integrated approach to biosecurity and since that time has invested more funding into Biosecurity Tasmania year-on-year.

The Tasmanian Biosecurity Strategy¹ provides a strong policy framework for the Tasmanian Biosecurity System. It is based on managing risks across the entire biosecurity continuum; with pre-border, border and post border activities designed to work together to mitigate risks.

¹ https://dpipwe.tas.gov.au/biosecurity-tasmania/biosecurity-policy-strategy-publications/tasmanian-biosecuritystrategy-2013-2017

It operates on the nationally accepted understanding that a zero risk system is unachievable and the balance and level of resourcing across the biosecurity continuum should be determined by a consistent analysis of risks and returns across programs using evidenced based systems and techniques. The 2008 wide-ranging independent Beale Review noted that biosecurity is shared responsibility and a risk-based approach recognising that the system includes a continuum of pre-border, border and post-border activities and sought to direct biosecurity controls and risk mitigation measures to where they were most effective. Beale noted that:

"... even if Australia wanted to, it could never operate a zero risk biosecurity regime: it could not afford to intercept and thoroughly search every passenger or every container of cargo arriving in the country; nor could it prevent bird migration or disease vectors being carried by air currents. Some pest and disease incursions are inevitable, and must be managed."²

More recently, the 2017 independent review into the national biosecurity system reiterated that:

"All Australian governments have agreed, consistent with our obligations as a member of the World Trade Organization and signatory to the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), to maintain a level of protection considered appropriate for life or health within our borders—the Appropriate Level of Protection (ALOP). Australia's ALOP provides for a high-level biosecurity standard aimed at reducing risk to a very low level but not to zero, reflecting community expectations while recognising that zero risk is not feasible. This level applies across the full range of activities that encompass the biosecurity system, where risk-based measures are applied."³

These principles apply to the Tasmanian system of biosecurity. Government recognises it has a leadership role in biosecurity in Tasmania and also acknowledges a successful State Biosecurity System is risked based and a shared responsibility of Government, industry, the broader Tasmanian community, and visitors to our State.

With these overarching principles in mind, the Government, and in particular Biosecurity Tasmania, is carefully considering and applying the learnings and experience from the blueberry rust incursions since 2014.

The process of this inquiry and the final report have helped inform the Government's ongoing approach to improving our biosecurity system.

² Roger Beale, Jeff Fairbrother, Andrew Inglis, David Trebeck (2008). One biosecurity: a working partnership. Retrieved from Analysis and Policy Observatory Website: https://apo.org.au/sites/default/files/resource-files/2008/09/apo-nid2926-1179116.pdf, pg XVII

³ Craik, W, Palmer, D & Sheldrake, R 2017, Priorities for Australia's biosecurity system, An independent review of the capacity of the national biosecurity system and its underpinning Intergovernmental Agreement, Canberra: website: agriculture.gov.au/igabreview

The Government agrees with the Chair of the Inquiry's statement that: "An effective, efficient, proactive biosecurity approach with well-trained and readily available staff is critically important to the agricultural sector and the broader community."

The Inquiry has already led to improved industry partnerships and communications, assisted in refining the draft Biosecurity Bill which is proposed for tabling in the Tasmania Parliament in early 2019, and also significantly improved how Biosecurity Tasmania conducts responses to detections in conjunction with affected stakeholders and industries.

Biosecurity Tasmania is committed to working with blueberry growers, Tasmanian Farmers and Graziers Association (TFGA) and Fruit Growers Tasmania (FGT) as it implements the recommendations of the Inquiry.

Select Committee Recommendations

Careful scrutiny has been given to the Select Committee's recommendations. Given the need for further research and development regarding eradication and/or effective disease management the Government is in-principle supportive of one recommendation and supports all other recommendations. Biosecurity Tasmania is already well-advanced in implementation of many of the recommendations. Table I provides a brief summary of the Government's position with further details provided below.

Select Committee's	Government Response	
recommendation		
I. Biosecurity Tasmania should aim for eradication of blueberry rust in Tasmania	Support in- principle	The Department will continue to implement the regulated containment strategy and work with growers to enable ongoing market access. The current regulated containment strategy involves a suite of measures including property quarantine, property inspection, industry partnership, and maintaining market access.
		This approach allows for eradication as an end-point. It allows for further research and development to be undertaken while managing the risk, Given the challenges faced with rust diseases, the next step towards possible eradication is further research to provide
		sound scientific guidance.
2. Funding be provided to undertake research into the effectiveness of defoliation of evergreen varieties as a means of eradicating blueberry rust and the management of evergreen varieties.	Support	Research leading to knowledge of pathogen biology and disease epidemiology underpins the design of an effective disease management strategy. The Government is currently considering several research projects proposed by Biosecurity Tasmania and the Tasmanian Institute of Agriculture (TIA) in relation to alternate management approaches.
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Table 1. Tasmanian Government response to the Committee's recommendations.

Select Committee's	Government	t Response
recommendation		
		The areas of research being considered include: testing of chemical protectants; defoliation control options for blueberry rust; non-chemical control options for blueberry rust; and varietal testing for resistance.
		Potential funding sources identified for the research projects include existing funding to TIA, the Agricultural Innovation fund (Government allocation of \$3 million over five years from 2018-19) and from other national scientific funding bodies.
		Importantly, Biosecurity Tasmania intends to establish a reference group of blueberry growers to provide direct advice regarding the development of the research program.
 Decisions regarding biosecurity should be made for the entire blueberry industry and not to the detriment of organic growers. 	Support	Biosecurity Tasmania does not distinguish between enterprises in the decision making process in the prevention, eradication or management of pest and disease incursions. Maintenance of market access to non-regulated States is done on behalf of the organic blueberry producers. Through the processes put in place, Biosecurity Tasmania has protected those markets and none have been lost to date.
 Biosecurity Tasmania develop a communication strategy to effectively engage with stakeholders and to improve transparency in its collaboration with growers on biosecurity matters. 	Support	The Government is continuously improving the communications with farmers, industry and the wider community on biosecurity matters. Importantly, a new Biosecurity Industry Collaboration Manager has been recruited to help build strong industry partnerships and ensure primary producers have accurate and current information on trade related pests and develop a broader communication, engagement and education strategy for Biosecurity Tasmania.
		Funding has been provided to the TFGA and FGT to support improved engagement with stakeholders on biosecurity matters.
		The Department has already implemented updated biosecurity communications. A key function of the Biosecurity Industry Collaboration Manager role will be continuous improvement of Biosecurity Tasmania's communication with industry, including blueberry growers.
		As noted, Biosecurity Tasmania intends to establish a reference group of blueberry growers relating to the research, development and extension program. The reference group would provide direct advice about the industry and its needs in the face of the blueberry rust incursion.
 Broad consultation be undertaken during development of the revised biosecurity legislation and include stakeholders from the blueberry inductor. 	Support	The proposed Biosecurity Bill would provide a simpler and more effective legal framework for the management of disease, weeds and vermin, imports of plant and animal products, and biosecurity emergencies.
industry.		Development of the Bill has been the subject of broad and extensive consultation including two rounds of public consultation on a discussion paper and a future directions paper, numerous focus meetings with stakeholders and other forums and three public consultation periods.
		Consultation on the Bill is nearing completion. The final draft of Tasmania's Biosecurity Bill was released for public

Select Committee's	Government	t Response
recommendation		commont on 26 January 2019 The draft Bill was provided
		commence on 20 january 2017. The draft on was provided
		to industry peak groups, directly enalied to bloeberry
		grower representatives and promoted more provely
		through media, advertisements, the Departmental website
		and a Biosecurity Advisory. The Department will consider
		submissions received, including any from blueberry
		growers, in finalising the Bill.
6. The revised legislation provides a	Support	The Government, in its first term, initiated the first ever
framework for the development		comprehensive policy review of Tasmania's biosecurity
of clear policies and procedures to		legislation. This review was to make sure I asmania has a
manage biosecurity in a proactive		practical, modern biosecurity system capable of furthering
way.		the principles and objectives in the Tasmanian Biosecurity
		Strategy while minimising red and green tape for business
		and the community. The main outcome of the review is the
		new Bill. The proposed Bill provides a framework for
		modern management of biosecurity, including biosecurity
		incident response.
		To an a the line of the state of the section of the
		asmania s diosecurity decision making processes are
		evidence based, consistent and transparent and meet
		national and international standards in terms of risk
		assessment and management. Biosecurity Lasmania
		incident management is based on national systems.
		Biosecurity Tasmania has a range of trained and
		experienced staff capable of being redeployed to
		biosecurity incident response duties. These include
		biosecurity inspectors for on-ground incident response
		duties, highly skilled specialist staff in animal and plant
		biosecurity, and diagnostic services such as the Animal
		Health Laboratories. The Invasive Species Branch in
		Biosecurity Tasmania would also be available to add to the
		Division's incident response capacity. Biosecurity Tasmania
		can also access other staff within the Department of
		Primary Industries, Parks, Water and Environment with
		emergency response experience and whole-of-Government
		interoperability arrangements to support incident response.
7. A comprehensive grower database	Support	It is recognised nationally that deficiencies in property
and a system of property		identification and traceability are a major weakness in
identification be developed for		terms of biosecurity responses and market confidence.
blueberry growers that can be		Traceability in the horticultural industries is complex and
applied across other industries.		challenging because of the diversity and very nature of the
		horticultural industries.
		A with more share been diaducation along is no successful
		As with most plant based industries, there is no property
		register with associated property identification Codes
		(ric) allowing rapid tracing, surveillance and
		communications in the face of a response. I his is
	1	recognised nationally as a significant gap and work is
		under way to address the issue more broadly.
		Biosecurity Tasmania will be working with peak bodies in
		Tasmania and nationally to investigate the options. In 2017
		the Tasmania Government provided \$310,000 to the TFGA
		for a four year on-farm biosecurity program which includes
		consideration of the development for Government of a
		database of properties and growers, if practicable. The
	1	development of such a database will be a good first step
		towards development of a robust traceability system for
		horticulture in Tasmania. However, costs and regulatory

Select Committee's	Government	Response
recommendation		hunder of a community of a second little surgery and
		substantial and may require the national approach.
		The Biosecurity Bill soon to be presented to Parliament would provide mechanisms for underpinning any future PIC system in Tasmania.
8. Biosecurity Tasmania ensures provisions within the legislation for non-compliance are applied.	Support	One of the key goals of the <i>Tasmanian Biosecurity Strategy</i> is to minimise the threat to Tasmania's primary industries, natural environment and public health from disease and pest risks associated with plants and plant products brought into the State.
		The proposed Biosecurity Bill would replace seven Acts and while these Acts have served us well, they were developed incrementally over three decades, and in a piecemeal fashion. Consolidating Tasmania's biosecurity laws into a single modern statute will ensure they remain "fit-for-purpose" and do not become increasingly duplicative and outdated. Improved legislation supports enhanced compliance activities through standardisation of provisions, for example those relating to legal proceedings and the obligations and powers of authorised officers.
		The new Biosecurity Bill would introduce the concept of a general biosecurity duty (GBD) intended to promote compliance through effective enforcement measures, and communication and collaboration between Government, industry and the community. The Bill (and regulations made if enacted) would create biosecurity related offences and other mandatory requirements that are specific. A three tiered penalty regime would also be introduced, increasing the penalties that could apply for non-compliance.
9. The Government develops a fair and equitable framework to compensate owners when property has been destroyed under an emergency order (with the purpose of minimising, eradicating or preventing the spread of emergency biosecurity	Support	The new Biosecurity Bill would provide for programs to reimburse businesses for direct losses as a result of a biosecurity response in specific circumstances. Currently in Tasmania, reimbursement is effectively limited to animals or plants destroyed in a biosecurity response when it is covered by one of several national cost-sharing deeds entered into between the states, Commonwealth and relevant industry body.
matter).	-	Consistent with longstanding principles in Government- industry Response Deeds and other jurisdictions (such as NSW), the draft Bill does not include an entitlement to reimbursement for indirect or consequential losses associated with biosecurity responses.
10. Biosecurity Tasmania improve its electronic communications (such as the webpage and the system alert) to ensure they remain relevant.	Support	Biosecurity Tasmania is currently implementing an improved Communications and Engagement Framework. The Framework details the underlying principles and guidelines for the communication and engagement activities that support Biosecurity Tasmania's delivery of core services in the areas of biosecurity, animal welfare and product integrity.
		A priority of the Framework's recommendations is the current review of all Biosecurity Tasmania content on the DPIPWE website for accuracy, relevance, and ease of navigation and access.

Select Committee's recommendation	Government Response
	The Tasmanian Biosecurity Advisory Service which now has over 1400 subscribers has recently been updated to add in more topic categories, together with an improved search function to allow easier access to previously published alerts. The Advisory Service is a component of a broader stakeholder communication framework that includes the website, a dedicated social media platform on Facebook, direct email industry updates, as well as an increased focus on improved collaboration with stakeholder groups and representative bodies.

Responses to each of the Reports 10 Recommendations

1. Biosecurity Tasmania should aim for eradication of blueberry rust in Tasmania Response: Support in principle

The response to blueberry rust in both 2014 and 2016 was based on sound biosecurity principles supported by evidence from the Department of Primary Industries, Parks, Water and Environment (DPIPWE), NSW Department of Primary Industries (NSW DPI) and the Tasmanian Institute of Agriculture (TIA).⁴

The 2016 situation presented entirely differently to the 2014 incursion. In 2014, trace-back on infected plants was confirmed early to a single and well defined source in Victoria, infected plants were stopped from being distributed and recall of other consignments of potentially infected plants occurred quickly. The rapid detection and low numbers of infected plants also meant that there was limited exposure in the environment for uninfected blueberry plants. This enabled a window for eradication by quick destruction of remaining plants which Biosecurity Tasmania successfully achieved.

In 2016, clear pathways of transmission of disease could not be determined and the full extent of spread was unclear. The Department undertook a scientific assessment of potential treatments of blueberry rust to identify if any treatments were currently available that might enable eradication of the disease to be attempted based on the Tasmanian situation. The assessment involved consulting with TIA, NSW DPI as well as Biosecurity Tasmania plant health specialists. The scientific assessment by TIA concluded that the rust pathogen could not be eradicated from the State. The advice from NSW DPI was that they would not recommend defoliation on a commercial scale as it had no technical basis as a response technique.

⁴ https://dpipwe.tas.gov.au/biosecurity-tasmania/plant-biosecurity/pests-and-diseases/blueberryrust#Scientificassessmentofcurrentstrategy

Analysis of scientific, technical and economic feasibility information was also critical in determining both the technical and economic feasibility of each management possibility. Based on the evidence and advice, a regulated containment strategy was adopted by Biosecurity Tasmania as the appropriate response to the specific situation in 2016.

The Department will continue to implement the regulated containment strategy and work with growers to enable ongoing market access. The current regulated containment strategy involves a suite of measures including property quarantine, property inspection, industry partnership, and maintaining market access. The approach allows for eradication as a possible end-point. It allows for further research and development to be undertaken while managing the risk.

Eradication of any pest or disease must be technically feasible and economically justified. Eradication must be based on evidence and sound biosecurity principles. However, it must be recognised that blueberry rust may not be able to be eradicated even with wholesale destruction of plants. Undetected infections may have already established at locations in Tasmania beyond the infected properties via the transport of airborne spores over long distances. A range of other possible mechanisms, including human assisted movement of spores can rapidly spread the disease beyond known pathways. Even a highly trained specialist cannot always detect infections present at a very low incidence. If an infection is detected, then the rust pustule (lesion) may have already produced and released its spores to the air currents.

In the much larger 2016 incursion, and based on well-founded scientific advice from NSW DPI and TIA on transmission pathways of blueberry rust, the use of widespread destructive measures on blueberry farms was not justified.

The regulated containment strategy keeps open the option of eradication through management processes and possible future innovations including research and development.

The regulated containment approach manages the biosecurity risks for the industry as a whole (organic and non-organic) and it does allow for possible longer term eradication without widespread impacts on businesses. State-wide surveillance of properties will continue in order to support containment and market access programs.

Given the challenges faced with rust diseases, the next step towards possible eradication is further research to provide sound scientific guidance.

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2. Funding be provided to undertake research into the effectiveness of defoliation of evergreen varieties as a means of eradicating blueberry rust and the management of evergreen varieties.

Response: Support

Research leading to knowledge of pathogen biology and disease epidemiology underpins the design of an effective disease management strategy. The Government is currently considering several research projects proposed by Biosecurity Tasmania and TIA in relation to alternate management approaches.

Biosecurity Tasmania intends to establish a reference group of blueberry growers to provide direct advice regarding the development of the research program, and how the learnings from program will can be best disseminated to industry.

Potential funding sources identified for the research projects include existing funding to TIA, the Agricultural Innovation Fund (Government allocation of \$3 million over five years from 2018-19) and from other national scientific funding bodies.

The following areas for research are being considered.

1. Testing of chemical protectants

Blueberry rust can be managed routinely in conventional production systems with the application of chemical products that act as protectants for the plants from infection by blueberry rust. However, many of these effective products are not recognised by organic certifiers and thus unable to be used by certified organic or reduced input producers. Work is required to determine what existing registered (or new) products are available that require trial testing and generation of efficacy and phytotoxicity data to a standard that is set by the Australian Pesticides and Veterinary Medicines Authority (APVMA) for either minor-use permit or label registration and recognised by Australian organic certifying bodies. At least two seasons of data would be required.

For example, recent products for use in other crops suggest potential for 'curing' infected plants. At present we rely primarily on protectant fungicides to guard against infection. A 'cure' would be useful and provide an option of not destroying infected crops but treating them.

2. Defoliation control options for blueberry rust

Due to some limited glasshouse work conducted in NSW, the possibility of chemically defoliating plants has been suggested as a means of fungal control. As well as the glasshouse work, the suggestion is based on the assumption that non-evergreens are somehow immune to infection by blueberry rust. This assumption is not correct. It is also contrary to evidence that defoliation of plants can have significant plant health impacts and is not without other problems.

Defoliation as a control measure for blueberry rust is yet to be proven or disproven and therefore needs to be further researched. Given the high level of interest in the topic a defoliation study will be considered by Government. The details will need to be further developed but the infection process and location of the pathogen within the plant would be investigated as part of any research or trial.

3. Non-chemical control options for blueberry rust

A review of potential non-chemical forms of control that support integrated disease management (IDM) could be undertaken. For example the disposal of cuttings of plants as well as leaf and trash material has been suggested. Options ranging from deep burial to incineration have been considered but there is limited research data available on these methods. Trial work that measures the risks associated with cuttings and identifies optimal disposal methods would provide significant assistance in enabling normal horticultural practices to continue whilst limiting spread of the disease. Greenhouse/lab studies could be set-up to mimic disposal conditions and provide fundamental information on life cycle survivability to various stresses under controlled conditions. Findings are likely to benefit cultural practice in the blueberry industry more generally.

4. Varietal testing for resistance

Varietal differences are an influencing factor in the likelihood of a blueberry plant being infected. There may be varieties which are more resistant with potential for total resistance. To determine if this is the case would require both glass house, field testing and the development of resistance markers and understanding of resistance mechanisms to aid the speed of development of commercially viable varieties. This would be a long-term program involving national and international collaboration that eventually may lead to commercial blueberry varieties resistant to blueberry rust infection being used in Tasmania.

3. Decisions regarding biosecurity should be made for the entire blueberry industry and not to the detriment of organic growers.

Response: Support

Biosecurity Tasmania does not distinguish between enterprises in the decision making process in the prevention, eradication or management of pest and disease incursions. This was the case in both of the recent blueberry rust incursions. The Government has always appreciated the concerns of organic growers. All of the efforts to maintain market access to non-regulated States were done on behalf of

the organic blueberry producers. Blueberry rust is routinely managed in conventional production systems and hence the additional work being done on market access is primarily on behalf of the organic market. Through the processes put in place, Biosecurity Tasmania has protected those markets and none have been lost to date.

4. Biosecurity Tasmania develop a communication strategy to effectively engage with stakeholders and to improve transparency in its collaboration with growers on biosecurity matters.

Response: Support

The Government is continuously improving the communications with farmers, industry and the wider community on biosecurity matters. Biosecurity Tasmania is currently implementing an improved Communications and Engagement Framework (see recommendation 10). Importantly, a new Biosecurity Industry Collaboration Manager has been recruited to help build strong industry partnerships and ensure primary producers have accurate and current information on trade related pests and develop a broader communication, engagement and education strategy for Biosecurity Tasmania. This was just one of six new jobs as part of a major \$8.6 million investment in Tasmania's biosecurity announced in the 2018-19 State Budget. The other new roles that will be of assistance to growers are three more inspectors and an industry risk planner, to ensure the State continues to respond to the challenges of increased trade and a growing economy.

The Tasmanian Government has also provided funding to the peak organisations TFGA and FGT to support communication and engagement on biosecurity.

The TFGA On-Farm Biosecurity Program is funded under the Tasmanian Government's Strategic Industry Partnerships Program at \$310 000 over four years commencing in 2017-18. The funding supports the TFGA to employ a full time staff member to educate farmers about biosecurity risks and associated mitigation strategies with a view to supporting culture change in relation to biosecurity practices and in line with the Tasmanian biosecurity system. The Program is being delivered by the TFGA working in collaboration with Biosecurity Tasmania operating under a joint industry/Government governance model (represented by a steering committee). Key objectives over the life of the program are to:

I. Raise awareness of the importance of good on-farm biosecurity.

- 2. Establish a framework for development of a farmer database of what is grown and raised on farms and, as far as is possible within the term of project, commence implementation.
- 3. Provide educational workshops for farmers.
- 4. Develop and/or distribute related industry materials to the farming community.
- 5. Be a point of contact for any biosecurity questions.

In this financial year the Tasmanian Government has provided \$500 000 over four years to implement a biosecurity communication and education program that aligns with the Tasmanian Biosecurity Strategy. This funding will facilitate:

- 1. Participation by fruit growers in strategic Government committees that relate to horticulture traceability and biosecurity communication.
- 2. Development a communications program in collaboration with Biosecurity Tasmania.
- 3. Development of grower training materials for on-farm biosecurity.

The Department has already implemented updated biosecurity communications targeting stakeholders including:

- renewed border and regional signage,
- a revamped Queensland fruit fly website designed to better communicate with specific target audiences (for example school children),
- greater social media presence, and
- continuing with growing the contact list, across all industries, for the Biosecurity Advisory Service, to increase its reach and transparency of activities of Biosecurity Tasmania.

A key function of the Biosecurity Industry Collaboration Manager role will be continuous improvement of Biosecurity Tasmania's communication with industry, including blueberry growers.

As noted, Biosecurity Tasmania intends to establish a reference group of blueberry growers relating to the RD&E program. The reference group would also provide direct advice about the industry and its needs in the face of the blueberry rust incursion.

5. Broad consultation be undertaken during development of the revised biosecurity legislation and include stakeholders from the blueberry industry.

Response: Support

The proposed Biosecurity Bill would provide a simpler and more effective legal framework for the management of disease, weeds and vermin, imports of plant and animal products, and biosecurity emergencies.

The proposed Bill will facilitate the sharing of responsibility between Government, industry and the community for biosecurity management. It will retain many of the elements of Tasmania's existing biosecurity system, but in a modernised and consolidated form.

Development of the Bill has been the subject of broad and extensive consultation including two rounds of public consultation on a discussion paper and a future directions paper, numerous focus meetings with stakeholders and other forums and three public consultation periods.

Consultation on the Bill is nearing completion. The final draft of Tasmania's Biosecurity Bill was released for public comment and feedback on 26 January 2019 with submissions closing on 22 February 2019. A copy of the Bill has been provided to industry peak groups, directly emailed to blueberry grower representatives and promoted more broadly through media, advertisements, the Departmental website and a Biosecurity Advisory. The Department will consider feedback and submissions received, including any from blueberry growers, in finalising the Bill.

6. The revised legislation provides a framework for the development of clear policies and procedures to manage biosecurity in a proactive way.

Response: Support

Proposed Biosecurity Bill

The Government, in its first term, initiated the first ever comprehensive policy review of Tasmania's biosecurity legislation. This review was to make sure Tasmania has a practical, modern biosecurity system capable of furthering the principles and objectives in the *Tasmanian Biosecurity Strategy* while minimising red and green tape for business and the community. The main outcome of the review is the new Bill. Seven Acts would be reduced to one, making our biosecurity system simpler, easier to understand and more efficient. A major project will be undertaken to develop more effective and efficient administrative systems, policies and procedures as part of the implementation of the new legislation.

The proposed Bill would provide a simpler and more effective legal framework for the management of weeds and vermin, imports of plant and animal products and responding to biosecurity emergencies.

A major shortcoming of the present biosecurity legislation – particularly the *Plant Quarantine Act 1997* – is the absence of a system to regulate the operation of industry certification schemes in Tasmania. Under the proposed Biosecurity Bill, industry based biosecurity certification, auditing and accreditation activities may be subject to the regulatory oversight. Another improvement in the proposed Bill is it has clear extra-territorial operation, which is uncertain under current legislation.

Like the legislation it replaces, the proposed Biosecurity Bill would provide the necessary legal framework for dealing with biosecurity emergencies. The Bill defines a biosecurity emergency as an emergency arising from a biosecurity risk or biosecurity impact. Tasmania will continue to be guided by national approaches (such as national emergency response deeds and agreements). However, the Bill enables these to be implemented through a simpler and more flexible regime of statutory instruments.

The Bill proposes to establish a three-tiered hierarchy for biosecurity emergency management. The choice of which statutory instrument to use would be determined by the relative urgency of the response required:

- In the most urgent situations, where there is a high level of uncertainty, the relevant Minister of the day can make an emergency order, which will expire after six months, unless remade. A court cannot issue an interim or interlocutory injunction to stay the operation of an emergency order, however a court is not prevented from making final orders to that effect.
- Where the risks of a biosecurity impact are significant, but not as urgent as with an emergency order, or more clearly understood, the Minister can make a control order. A control order can be in effect for a period up to five years without needing to be remade.
- Where long-term management of a biosecurity issue is required, biosecurity zones can be made by regulations. These will generally be ongoing until the risk or impact being managed is addressed (or accepted). However, regulations will normally expire after 10 years, unless remade.

Incident management

Tasmania's biosecurity decision making processes are evidence based, consistent and transparent and meet national and international standards in terms of risk assessment and management. Technical and policy personnel are appropriately qualified and experienced in their fields. In preparing for and responding to outbreaks such as blueberry rust, Biosecurity Tasmania adopts the Biosecurity Incident Management System (BIMS)⁵. Adoption of BIMS leads to efficiencies in preparedness activities, such as planning, training and exercising as well as enhancing the existing pool of human resources available from other agencies that may be able to assist in emergency responses. BIMS provides the framework for sector-specific incident response arrangements, such as AUSVETPLAN and PLANTPLAN.

BIMS classifies biosecurity incidents from Level 1 (localised and minor) to Level 5 (major and an international response required). The two blueberry rust outbreaks were classified as Level 2, where the capacity and resources within Biosecurity Tasmania were sufficient to manage the response.

Biosecurity Tasmania has a range of trained and experienced staff capable of being redeployed to biosecurity incident response duties. Biosecurity Operations Branch has over 60 biosecurity inspectors for on-ground incident response duties. There are also approximately 10 highly skilled staff in each of the animal biosecurity and plant biosecurity branches. These staff are trained in specialist disciplines such as veterinary science and plant health diagnostics. A range of other staff and resources from the Invasive Species Branch and the Animal Health Laboratories in Biosecurity Tasmania would also be available to add to the Division's incident response capacity.

Incident response also requires staff with specialist operations knowledge and an understanding of emergency response procedures. A number of Biosecurity Tasmania staff have supported interstate incident responses over the years and are familiar with procedures implemented at a State as well as national level. Biosecurity Tasmania can also access, where appropriate, other staff within the Department of Primary Industries, Parks, Water and Environment with emergency response experience and whole-of-Government interoperability arrangements to support incident response.

7. A comprehensive grower database and a system of property identification be developed for blueberry growers that can be applied across other industries.

Response: Support

It is recognised nationally that deficiencies in property identification and traceability are a major weakness in terms of biosecurity responses and market confidence. Rapid tracing of movements of host materials is critical in the early stages of any biosecurity response. Traceability relies on a comprehensive knowledge not only of the enterprises growing product but all points along the supply

⁵ http://www.agriculture.gov.au/biosecurity/partnerships/nbc/nbepeg/bims

chain. Traceability in the horticultural industries is complex and challenging because of the diversity and very nature of the horticultural industries.

A National Traceability Project is currently underway aimed at enhancing Australia's traceability systems for the future. The project is led by Agriculture Senior Officials Committee (AGSOC) which includes senior representation from DPIPWE. The National Traceability Project involves two stages: stage 1 commenced in November 2017. It assessed the current state of the Australia's agricultural traceability systems, across most agricultural commodities, and reviewed global drivers for the future. Stage 2 commenced in October 2018. It involves the development of a National Traceability Framework and Action Plan for enhancing Australia's agricultural traceability systems. The aim of the Project is to develop a National Traceability Framework and an Action Plan to put the framework in place. The Federal Department of Agriculture and Water Resources is undertaking consultation on the draft framework and action plan..6

As with most plant based industries, there is no property register with associated Property Identification Codes (PIC) allowing rapid tracing, surveillance and communications in the face of a response. Work is underway nationally led by the National Biosecurity Committee to address the issue more broadly. Biosecurity Tasmania will be working with peak bodies in Tasmania and nationally to investigate the options. The Biosecurity Bill soon to be presented to Parliament would provide mechanisms for underpinning any future PIC system in Tasmania such as industry and Government Biosecurity Programs, producer Registration or through Regulations.

In addition, in 2017, the Government provided \$310 000 to the TFGA for a four year on-farm biosecurity program which includes consideration of the development for Government of a database of properties and growers, if practicable. The development of such a database will be a good first step towards development of a robust traceability system for horticulture in Tasmania. However, costs and regulatory burden of a comprehensive traceability system are substantial and may require the national approach.

8. Biosecurity Tasmania ensures provisions within the legislation for non-compliance are applied.

Response: Support

⁶ http://www.agriculture.gov.au/market-access-trade/traceability-project

Biosecurity Tasmania manages a range of legislation, and when it comes to horticulture industries the primary legislation is the *Plant Quarantine Act 1997*. One of the key goals of the *Tasmanian Biosecurity Strategy* is to minimise the threat to Tasmania's primary industries, natural environment and public health from disease and pest risks associated with plants and plant products brought into the State. In practice, this means that there are a large number of Import Requirements relating to the conditions of entry for a wide range of plants and plant products that are imported into Tasmania. It also includes provisions relating to quarantine and infected areas. The Act includes penalties for non-compliance which are applied where appropriate.

The proposed Biosecurity Bill would replace seven Acts and while these Acts have served us well, they were developed incrementally over three decades, and in a piecemeal fashion. Consolidating Tasmania's biosecurity laws into a single modern statute would ensure they remain "fit-for-purpose" and do not become increasingly duplicative and outdated. Improved legislation supports enhanced compliance activities through standardisation of provisions, for example those relating to legal proceedings and the obligations and powers of authorised officers.

One of the most significant changes proposed to be introduced in the new Biosecurity Bill is the introduction of the concept of a general biosecurity duty (GBD). The GBD imposes a statutory duty of care on all persons to use reasonable standards of care when dealing with any biosecurity matter (animals, plants, diseases, contaminants and other biological material) or carrier of biosecurity matter. It is intended to promote compliance through effective enforcement measures, and communication and collaboration between Government, industry and the community. Failure to comply with the GBD would be a criminal offence.

The Bill (and regulations made if enacted) would also create biosecurity related offences and other mandatory requirements that are specific. The Bill refers to these as specified biosecurity requirements. Where a person has committed a specific biosecurity offence, such as breaching a permit condition – the person may be charged with the specific offence, or alternatively the offence of breaching the general biosecurity duty, or both.

The criminal penalty regime is intended to be more appropriate for the nature and gravity of biosecurity offences, and better aligned with penalties for similar offences in other States. A three tiered penalty regime would be introduced.

The Bill proposes a highest penalty is a 10 000 penalty-unit fine for a corporation (\$1 590 000 on 2017-18 rates) or four years' imprisonment for a natural person. This penalty would only apply to cases where a person is convicted of an intentional or reckless breach of the general biosecurity duty, resulting in a significant biosecurity impact.

The next level is a maximum fine of 3 750 penalty units for a corporation, or two years' imprisonment for a natural person. This would apply to an offence requiring proof of fault or negligence, such a breach of the general biosecurity duty that was negligent (rather than reckless or intentional).

The lowest level is a 2 500 penalty unit fine for a corporation or 500 penalty unit fine for a natural person. This is the standard maximum penalty applying to most offences in the Bill, including offences of strict liability, such as importing restricted matter without a permit.

9. The Government develops a fair and equitable framework to compensate owners when property has been destroyed under an emergency order (with the purpose of minimising, eradicating or preventing the spread of emergency biosecurity matter).

Response: Support

The proposed Biosecurity Bill, among many things, would enable programs to reimburse businesses for direct losses as a result of a biosecurity response in specific circumstances. Currently in Tasmania, reimbursement is effectively limited to animals or plants destroyed in a biosecurity response when it is covered by one of several national cost-sharing deeds entered into between the States, Commonwealth and relevant industry body. This shortcoming was evident in the response to blueberry rust where landholders were unable to be directly recompensed for the loss of plants destroyed on their properties or in infected nurseries.

As was noted in the DPIPWE submission to the Inquiry ex gratia payments? were made to two growers (35IP and 37IP) impacted by the 2014 outbreak. The payments were made on 15 December 2016. A further settlement payment was paid on 7 December 2016 to one of these growers (37IP) as a consequence of non-target species being damaged or destroyed as a result of the eradication activities.

The proposed Bill provides mechanisms to allow owners to be reimbursed for the death or destruction of animals, plants, or other property in the following circumstances:

⁷ Ex gratia payments are discretionary payments that can be made that are not due to a legal obligation or for the supply of a good or service. Ex gratia payments are usually made by the Government to individuals or organisations who have suffered a loss due to a particular negative circumstance but do not constitute any form of concession or admission of liability by the Government.

- where the animal, plant or property is covered by a biosecurity cost-sharing agreement which provides for reimbursement; or
- where it is destroyed under a Government biosecurity program which specifically provides for reimbursement; or
- where it is destroyed under an approved (industry or community) biosecurity program which specifically provides for reimbursement; or
- otherwise in a circumstance that may be prescribed by the regulations.

Consistent with longstanding principles in Government-industry Response Deeds and other jurisdictions (such as NSW), the draft Bill does not include an entitlement to reimbursement for indirect or consequential losses associated with biosecurity responses.

10. Biosecurity Tasmania improve its electronic communications (such as the webpage and the system alert) to ensure they remain relevant.

Response: Support

As noted, Biosecurity Tasmania is currently implementing an improved Communications and Engagement Framework. The Framework details the underlying principles and guidelines for the communication and engagement activities that support Biosecurity Tasmania's delivery of core services in the areas of biosecurity, animal welfare and product integrity.

A priority of the Framework's recommendations is the current review of all Biosecurity Tasmania content on the DPIPWE website to ensure it is accurate, relevant, up-to-date and meets the needs of all stakeholders. Major attention will also be given to the re-categorisation of information within the webpage layout to ensure all users can more easily locate and navigate to the information they need to access.

Biosecurity Tasmania also provides the Tasmanian Biosecurity Advisory Service which now has over 1400 subscribers that receive regular email alerts on a range of biosecurity related topics. Recent evidence has suggested that the 'reach' of the Advisory Service is far greater than the Biosecurity Tasmania subscriber list due to links and cross-promotion/sharing across other similar advisory/ newsletter services. The system has recently been updated to add in more topic categories, together with an improved search function to allow easier access to previously published alerts. Biosecurity Tasmania continues to use the Advisory Service as an important component of a broader stakeholder communication framework that includes the website, a dedicated social media platform on Facebook, direct email industry updates, as well as an increased focus on improved collaboration with stakeholder groups and representative bodies.