

Engagement Summary

Reforming Victoria's biosecurity legislation discussion paper



We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it.

We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

DEECA is committed to genuinely partnering with Victorian Traditional Owners and Victoria's Aboriginal community to progress their aspirations.



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Executive summary

The *Reforming Victoria's biosecurity legislation discussion paper* was released for public feedback from 2 September to 9 October 2022.

The Discussion Paper asked for feedback on three key topics for the reform of Victoria's biosecurity legislation:

Topic 1 – What does reformed biosecurity legislation look like?

Topic 2 – How can reformed legislation clarify roles and responsibilities in biosecurity?

Topic 3 – What new tools for managing biosecurity risk should be included in legislation?

The consultation comprised of a short survey on the Engage Victoria website, or a submission on the topics in the discussion paper could be made.

Representatives from industry, community and other biosecurity stakeholder organisations, as well as Traditional Owner groups attended a workshop to discuss the legislative reform during the consultation period.

Survey

Ninety-four surveys were completed on the Engage Victoria website:

- **Protecting Victoria's farmland, fisheries and agricultural industries** was the outcome that survey respondents nominated they would most like the biosecurity legislative reform to achieve, followed by protecting biodiversity, water, amenity and Aboriginal heritage.
- **Clarifying biosecurity roles and responsibilities** was the objective that survey respondents said they most wanted the reform to achieve, followed by more adaptable laws to respond to changing biosecurity risks, and less red tape.
- **Biosecurity roles and responsibilities** was the most important topic of the reform nominated by survey respondents, followed by tools for managing biosecurity risks, compliance and enforcement, and the scope of the reform.

Submissions

Twenty-two submissions on the discussion paper were made.

- There was broad support for consolidating biosecurity powers, obligations and offences currently spread across multiple Victorian Acts into a single Biosecurity Act, with more details provided in subordinate legislation such as regulations. Some submitted that while this could likely be achieved for most of the laws, there would be some that might be identified during the reform as best remaining in their current legislative location.
- Others highlighted the importance of ensuring the reform has an equal focus on protecting the environment and protecting industries.
- Ways to clarify biosecurity roles and responsibilities to strengthen the biosecurity system were suggested. Others highlighted barriers to wider participation in biosecurity action which the reform could address.
- The adoption of a precautionary principle to support policy decisions that take into account uncertain but potentially serious and/or irreversible threats of harm from pest plants and animals and diseases was supported.
- Improving and expanding Victoria's traceability requirements for biosecurity was a key suggestion, although the practicalities and costs would require assessment.
- There was support for introducing a general biosecurity duty in the reformed legislation. The importance of an effective communication program was highlighted.

- It was agreed that reformed legislation could better support co-regulation by recognising third-party assurance and traceability systems, with appropriate accountability and transparency safeguards. They highlighted how effective co-regulation can reduce regulatory burden and strengthen the biosecurity system, including the response to biosecurity emergencies.
- There were calls to legislate a State of Biosecurity Report. Some suggested legislating the role of a Victorian Chief Environmental Biosecurity Officer.

Next steps

Feedback on the Discussion Paper is informing the development of any future policy proposals for the reform.

Introduction

The Department of Jobs, Precincts and Regions (DJPR) released the *Reforming Victoria's biosecurity discussion paper* on the Engage Victoria website in September 2022.

The Discussion Paper asked for feedback on three key topics for the reform of Victoria's biosecurity legislation:

Topic 1 – What does reformed biosecurity legislation look like?

Topic 2 – How can reformed legislation clarify roles and responsibilities in biosecurity?

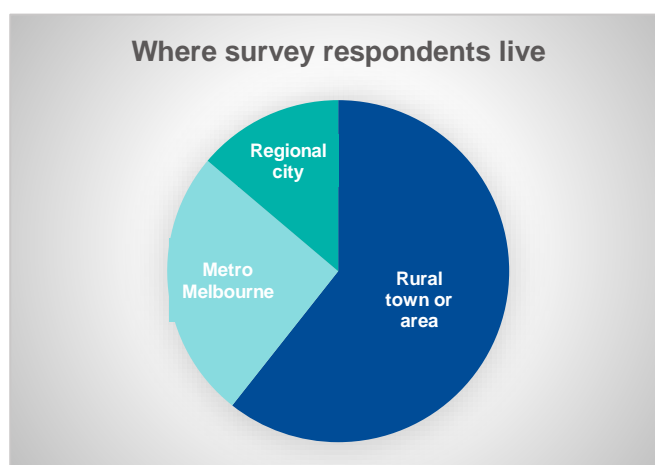
Topic 3 – What new tools for managing biosecurity risk should be included in legislation?

The consultation was open for five weeks, from 2 September to 9 October 2022. People could complete a short survey on the Engage Victoria website or make a submission to the Discussion Paper.

Surveys

Ninety-four respondents completed the survey on biosecurity legislative reform on the Engage Victoria website.

- 75 per cent (70) of survey respondents said they lived outside metropolitan Melbourne:
 - 61 per cent (57) said they lived in a rural town or area
 - 14 per cent (13) said they lived in a regional city
- 25 per cent (24) said they live in metropolitan Melbourne.

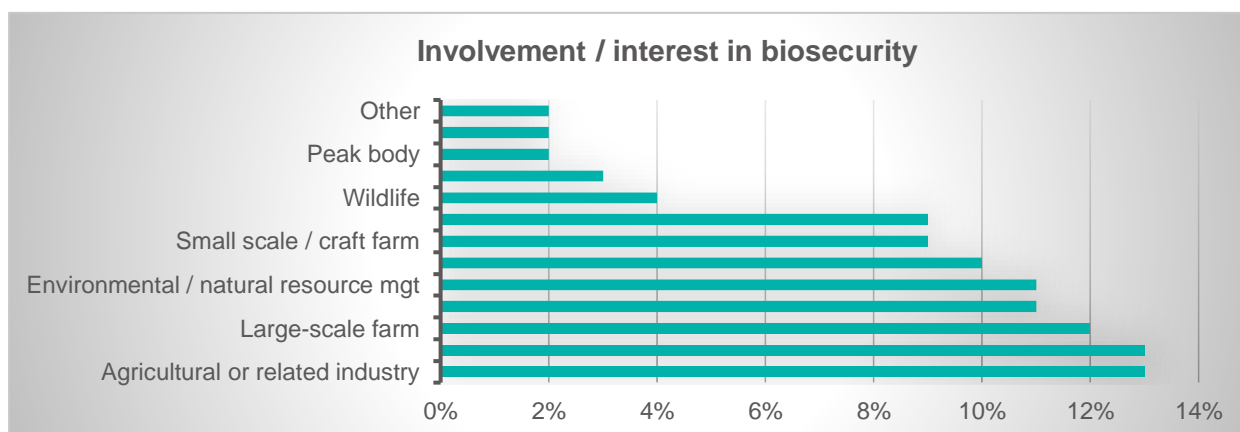


Involvement / interest in biosecurity

Almost half (47%; 43) of survey respondents said their involvement / interest in biosecurity related to farming or agriculture:

- 13 per cent (12) said they were involved in an agricultural-related industry
- 13 per cent (12) said they were involved with a hobby farm
- 12 per cent (11) said a large-scale farm
- 9 per cent (8) said a small-scale / craft farm.

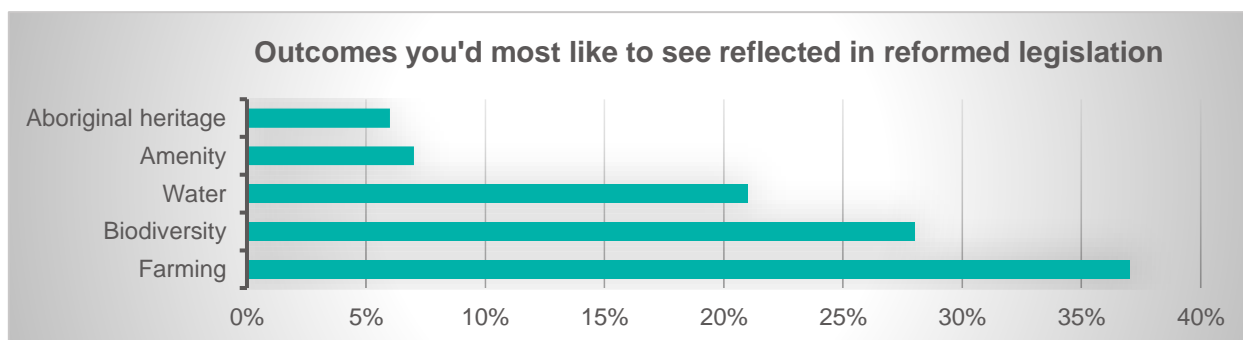
Others said they were involved with animal health and welfare (11%; 10), environment or natural resource management (11%; 10), in a government role (10%; 9), through recreation (9%; 8), wildlife (4%; 4), academia (3%; 3) or a community interest group (2%; 2).



Outcomes to be reflected in reformed legislation

The survey asked which three outcomes that respondents most want to see reflected in reformed biosecurity legislation:

- **Farming:** protecting farmland, fisheries and agricultural industries to promote market access and agricultural exports – 37 per cent of respondents rated this as one of the three outcomes they want to see reflected in reformed biosecurity legislation.
- **Biodiversity:** preserving natural habitats and indigenous plant and animal life – 28 per cent of respondents rated this as one of the three outcomes they want to see reflected in reformed biosecurity legislation.
- **Water:** protecting the health of Victoria's waterways and water supplies – 21 per cent of respondents rated this as one of the three outcomes they want to see reflected in reformed biosecurity legislation.
- **Amenity:** protecting community spaces and recreational areas to support social interactions and community gathering – 7 per cent of respondents rated this as one of the three outcomes they want to see reflected in reformed biosecurity legislation.
- **Aboriginal heritage:** protecting cultural sites and respecting Aboriginal knowledge and practices in caring for Country – 6 per cent of respondents rated this as one of the three outcomes they want to see reflected in reformed biosecurity legislation.

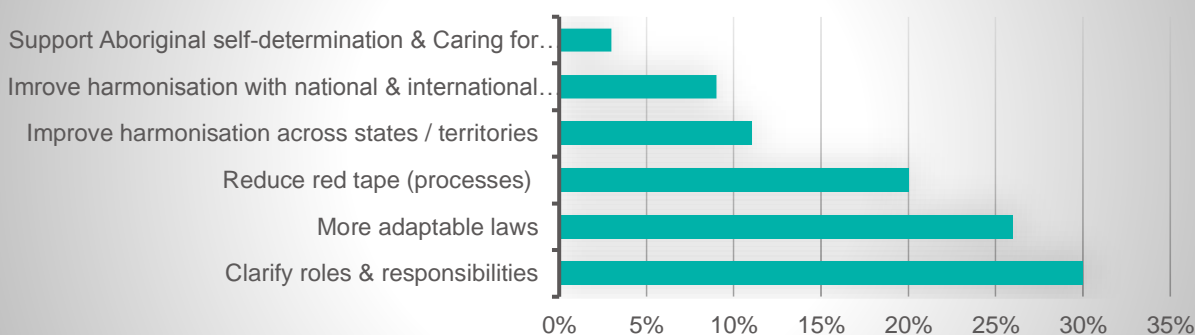


Objectives of the legislative reform

The survey asked which three objectives that respondents would most like reformed biosecurity legislation to achieve.

- **Clarity in the law about roles and responsibilities in managing biosecurity risk** – 30 per cent of respondents rated this as one of the three objectives they would most like reformed biosecurity legislation to achieve.
- **More adaptable laws to respond to changes in biosecurity risks and new ways of dealing with pests, weeds and diseases** – 26 per cent of respondents rated this as one of the three objectives they would most like reformed biosecurity legislation to achieve.
- **Reduce the number of processes (less red tape) involved for dealing with pests, weeds and diseases** – 20 per cent of respondents rated this as one of the three objectives they would most like reformed biosecurity legislation to achieve.
- **Improved harmonisation of laws across Australian states and territories to reduce red tape and facilitate trade in food and fibre** – 11 per cent of respondents rated this as one of the three objectives they would most like reformed biosecurity legislation to achieve.
- **Improved harmonisation with national and international biosecurity agreements to support response and recovery after biosecurity incidents** – 9 per cent of respondents rated this as one of the three objectives they would most like reformed biosecurity legislation to achieve.
- **Supporting opportunities for Aboriginal Self-Determination and recognising Aboriginal knowledge and practices in caring for Country** – 3 per cent of respondents rated this as one of the three objectives they would most like reformed biosecurity legislation to achieve.

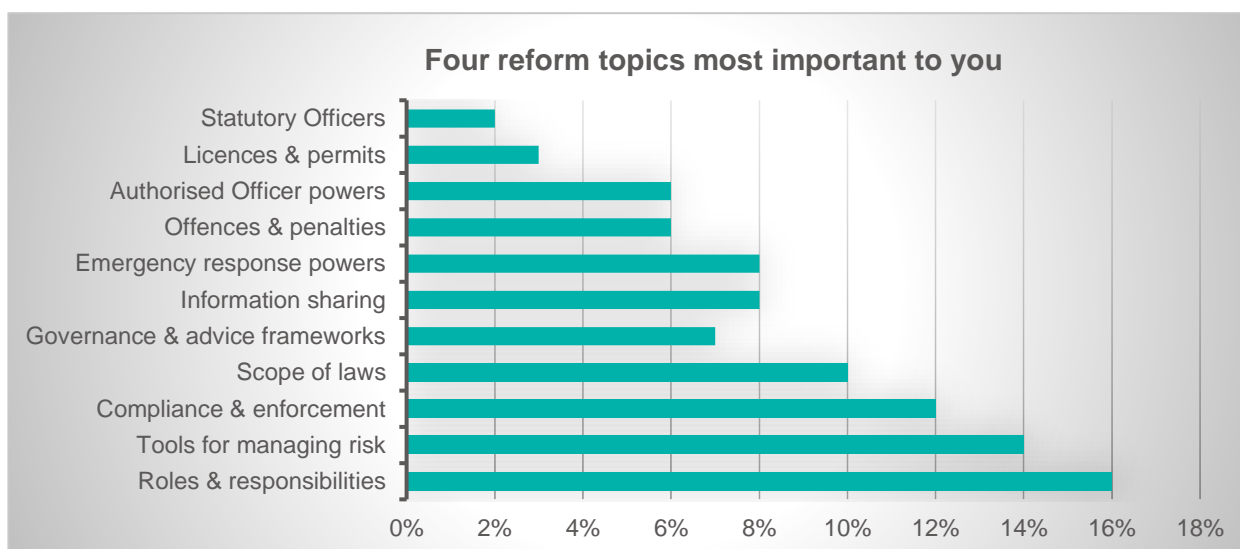
Objectives you would most like reformed legislation to achieve



Most important reform topics

The survey asked respondents to rate which four reform topics were most important to them:

- **Roles and responsibilities for those that participate and make decisions in the biosecurity system** – 16 per cent of respondents rated this as one of the four reform topics most important to them.
- **New tools and improving existing tools in the reformed biosecurity laws for managing biosecurity risk** – 14 per cent of respondents rated this as one of the four reform topics most important to them.
- **Compliance and enforcement tools to encourage voluntary compliance and respond when people do not comply with the law** – 12 per cent of respondents rated this as one of the four reform topics most important to them.
- **Scope of new biosecurity laws** – what is included and not included in a consolidated biosecurity Act – 10 per cent of respondents rated this as one of the four reform topics most important to them.
- **Governance and advice frameworks to support decision making for the biosecurity system** – 9 per cent of respondents rated this as one of the four reform topics most important to them.
- **Information sharing to support decision making** – 8 per cent of respondents rated this as one of the four reform topics most important to them.
- **Emergency response powers** – 8 per cent of respondents rated this as one of the four reform topics most important to them.
- **Offences and penalties** – 6 per cent of respondents rated this as one of the four reform topics most important to them.
- **Co-regulation of biosecurity risk between government and other parties** – 6 per cent of respondents rated this as one of the four reform topics most important to them.
- **Appointment and powers for Authorised Officers** – 5 per cent of respondents rated this as one of the four reform topics most important to them.
- **Administration of licences and permits** – 3 per cent of respondents rated this as one of the four reform topics most important to them.
- **Appointment and powers of statutory positions like the Chief Plant Health and Chief Veterinary officers** – 2 per cent of respondents rated this as one of the four reform topics most important to them.



Submissions

Twenty-two submissions were received on the Discussion Paper:

- Seventeen submissions were received from industry, professional, community-based and other organisations
- Two personal submissions were received from individuals.

Key feedback from submissions is provided below.

Feedback below does not detail all feedback received in submissions but summarises key feedback received on topics.

Topic 1 – What does reformed legislation look like?

There was general support for streamlining Victoria’s biosecurity legislation, although with some qualifications.

Submissions acknowledged the benefits of consolidating biosecurity powers, obligations and offences currently spread across multiple Acts into a single Biosecurity Act, with more details provided in regulations.

- **Landcare Victoria** said that consolidating the legislation could help address current inconsistencies, establish a more consistent framework for policy and implementation, and encourage greater coordination of biosecurity efforts across departments and agencies. However, Landcare Victoria considered that ‘complete consolidation of biosecurity legislation is likely not possible or desirable’.
- The **Victorian Farmers Federation (VFF)** supported a single Biosecurity Act, calling for explicit acknowledgement in the legislation that pest plants and animals and overly-abundant wildlife are key threats to biodiversity, biosecurity and productivity, and that active management across land tenures is required. The VFF highlighted the importance of considering any impacts of consolidating the legislation on current arrangements for the regional listing of pest plants and animals, and the integrated pest plant and animal framework under Victoria’s *Catchment and Land Protection Act 1994*.
- The **Victorian National Parks Association** highlighted the need for a single consolidated Act:

Victoria already has dire invasive species problems that will continue to worsen unless there is substantial reform of laws, policies and programs to prevent the introduction of new harmful species, eradicate newly established species, and more effectively contain and control established threats. New stand-alone biosecurity legislation is well overdue.

- The **Victorian Forest Products Association** noted that while a single Act could achieve efficiencies, it was important the reform did not diminish the overall capacity and resources for plant biosecurity:

With the merging of the different Acts it will be important to make sure that the powers to act and respond to an emergency are not watered down. Approaches for animal, plant, and invasive emergencies are very different. Legislative flexibility can be good if changes need to be made but can also mean that its open to a wider interpretation and less enforceable.

Scope of the reform

Some submissions highlighted the reform should place equal weight on environmental biosecurity as agricultural biosecurity. Others said the reform should acknowledge biosecurity relating to human health.

- **Australian Pork Limited** said that while biosecurity relating to human health was outside the scope of the reform, strong partnerships between agricultural and human health departments were important, with clearly identified legislated roles and responsibilities relating to managing emerging and current zoonotic diseases:

Learnings from the ongoing COVID-19 outbreak have demonstrated that biosecurity is no longer an agricultural and livestock issue but poses a significant threat to the broader community.

- The **Australian Veterinary Association (AVA)** highlighted the importance of the scope of the reform including the prevention, monitoring and management of companion animal and wildlife infectious diseases, and that the Act acknowledge the threats they pose to the natural and built environments and to social wellbeing.

The AVA submitted that sector-specific provisions should be retained in any consolidated legislation, highlighting the powers and controls for Emergency Animal Diseases (EADs) currently provided in the *Livestock Disease Act 1994*. Reformed legislation must also allow for the setting of biosecurity standards for various sectors, species, and production systems.

- The **Invasive Species Council** highlighted that environmental biosecurity was just as important as agricultural biosecurity, recommending the principles of safeguarding natural habitats and cultural connections to land should be enshrined in the new Act.

It recommended expanding the reform scope to include additional environmental priorities, such as addressing the issue of native species that have spread beyond their natural range, which it said are not currently adequately addressed by Victorian policy, regulation and practice:

Feral deer, for example, are protected for the benefit of hunters under the Wildlife Act rather than managed as a highly damaging environmental and agricultural pest species – despite one of the species, sambar, being listed as a potentially threatening process.

...While there are provisions within the Catchment and Land Protection Act 1994, it is poorly enforced and regulated particularly when invasive species are impacting environmental concerns, instead focusing heavily on agricultural interests.

- **Landcare Victoria** said the reform should place equal weight on biosecurity risks to the environment as the agricultural and other industry risks:

Too often, biosecurity risks primarily relevant to the natural environment fall between the cracks. Biosecurity risks and responsibilities relevant to agricultural production can often be addressed at various points in import and production supply chains, but this falls down when the risk mainly affects environmental values.

- Organisations including the **Invasives Species Council** and the **Australian Veterinary Association** said the reform provided opportunity to more comprehensively acknowledge and address marine biosecurity risks currently covered by the *Fisheries Act 1995*.

Acknowledgement of marine biosecurity risks is another positive step to a more holistic approach to biosecurity. While this to date has been partly covered by the Fisheries Act 1995, it is positive to see this is being considered for inclusion into the new Act, and recognising that it has not been given the appropriate attention this increasingly important aspect of biosecurity requires.

Invasive Species Council

Precautionary principle

There was support for adopting a precautionary principle approach to support policy decisions which considers uncertain but potentially serious and/or irreversible threats of harm from pest plants and animals and diseases.

- The **Victorian National Parks Association** advocated for a precautionary principle to provide a preventative approach of banning entry of new taxa unless they are assessed as low risk, and to account for the uncertainties of climate change.
- The **Invasive Species Council** supported adopting a precautionary principle like that adopted by Queensland and Tasmania:

The precautionary principle is essential because of the high levels of uncertainty about invasive species impacts in the natural environment, the long timeframes over which invasions occur and the often-limited management options.

Topic 2 – How can reformed legislation clarify roles and responsibilities in biosecurity?

Submissions highlighted the benefits and opportunities to clarify biosecurity roles and responsibilities in the reform, although some were concerned this might mean government shifting responsibilities to industry and community. Others highlighted barriers to wider participation in biosecurity action which the reform could address.

Roles and responsibilities

- **Australian Pork Limited** said reformed legislation could clarify the responsibility and accountability of all landowners and managers to manage pest animals, such as feral pigs. Clarifying roles and responsibilities could also support improved coordination of biosecurity effort. The importance of communicating roles and responsibilities to government and industry sectors, Traditional Owners and community groups was highlighted.
- The **Victorian Farmers Federation (VFF)** said that roles and responsibilities across the agricultural supply chain should be identified in reformed legislation, including the obligations of importers, exporters and government in the screening, surveillance, monitoring, chemical treatment or destruction of import products coming into Australia. It pointed to the *Tasmanian Biosecurity Act 2019*, which identifies profiles in industry, community and government, and flags the importance of biosecurity management planning and action, contact and reporting for livestock producers.

The VFF also highlighted gaps in the definition of a producer in current Victorian legislation:

Currently, the Livestock Disease Control Act Regulations 2017 do not define a producer. Moreover, growers involved in commercial farming are typically tasked with ensuring that biosecurity is appropriately acknowledged through an inherent biosecurity duty, assessed via quality assurance and auditing schemes. The VFF acknowledges that Victorian farmers act as the first line of defense against persistent threats to biosecurity. However, the agricultural sector must have a clear definition of a producer, which could be expanded to include smallholder and hobby livestock owners to ensure they also understand their role in the biosecurity legislative and regulatory framework.

Shared responsibility

There was general support for legislative reform that supports shared responsibility in biosecurity. Some cautioned the importance of ensuring the reform did not shift government responsibilities to industry and the community. The importance of communications and engagement to building a culture of shared responsibility was highlighted.

- **Animal Medicines Australia** submitted that it was important the concept of shared responsibility did not devolve to 'burdensome regulations that fail to address the problem' and that regulatory actions and responses were 'appropriate, realistic, feasible and effective'.

- The **Australian Livestock and Property Agents Association** noted that successful shared biosecurity responsibility depended on clear laws so everyone understands their obligations and the implications of non-compliance.
- **Australian Pork Limited** supported helping to build and empower shared responsibility for biosecurity through the legislation, including across the primary production supply chain.
- The **Nursery and Garden Association of Victoria** submitted that while it supported the concept of shared responsibility, the legislation must *‘foster a culture of collaboration rather than one of a compliance-based combative nature’*.
- The **Victorian Farmers Federation** highlighted that shared responsibility must recognise the government’s obligation to appropriately manage Crown land.
- The **Victorian Forest Products Association** said while it supported the concept of shared responsibility, it cautioned that government responsibilities under the NEBRA (National Environmental Biosecurity Response Agreement) should remain. It cautioned that any reforms should not be used as an exercise to shift responsibilities and costs from government to industry, nor to apply expensive, unnecessary and unwarranted compliance costs.

Data and technology

Reforming the legislation to recognise and support the use of technologies in biosecurity risk management and response was raised in some submissions.

- **Australian Pork Limited** highlighted the reform could build on existing pathways for integrating information technology into biosecurity management through desktop and mobile apps, although it would be important to consider data privacy and protection. Reformed legislation could support a collaborative and coordinated national diagnostic surveillance system that leveraged the capability and capacity of public and private networks, based on the National Animal Health Diagnostics Business Plan and National Animal Health Surveillance Business Plan.
- The **Australian Veterinary Association** encouraged reform to allow for advancements in technology, particularly around data, as well as for disease detection:

Legislative reform that acknowledges the need to nationally harmonise data collection across a range of areas including diagnostic capability and traceability would serve Victoria well. The use of innovative diagnostic technologies must also be supported in contemporary legislation, to increasingly support the use of Point of Care testing platforms by private veterinary practitioners on the front line of disease surveillance.

- **Citrus Australia** noted that any reforms to increase data collection from a wider range of non-government sources such as citizens or small-scale producers would benefit the system if the data was appropriately interrogated and data quality, although it was unclear how primary legislation would support this outcome.
- The **Nursery and Garden Association of Victoria** highlighted opportunities for government to recognise and collaborate with industry-generated data such as crop monitoring and site surveillance. Any changes to legislative requirements relating to data sharing must include consultation and impact assessments:

What may benefit one commodity group may be an unrealistic burden on the nursery industry given we encompass such a broad genera.

- The **Victorian National Parks Association** referred to satellite imaging being used for retrospective analysis showing a land holder’s history of failure to control weeds, and that historical actions (or failures to act) need to be factored into compliance and enforcement.

Funding models

- **Citrus Australia** recommended investigating the cost:benefit outcomes of Recognised Biosecurity Groups (RBG) in Western Australia, which are established under that state’s *Biosecurity and Agriculture Management Act 2007*. That Act provides for Declared Pest Rates from landholders in each RBG, and the government matches the rates dollar-for-dollar to fund RBG activities. Each RBG must publish an annual report on its performance and expenditure.

- The **Australian Veterinary Association** highlighted the importance of retaining current legislative provisions in Victoria that provide a mechanism for livestock industries to collect funds (duties) from producers for co-investment in biosecurity projects and programs. It cited the Victorian Significant Disease Investigation Program which provides subsidies to veterinary practitioners to undertake ‘public good’ surveillance via investigations on farms of defined disease events. Reforming the legislation to enable the expansion of this program to include domestic animals was recommended. A similar program could cover commodities in the plant production sector.

Traditional Owners

- There was support for recognising the biosecurity knowledge and role of Traditional Owners and Aboriginal Victorians in the Act and removing barriers to their greater participation in biosecurity action.

For example, the **Invasive Species Council** supported recognising Aboriginal people and their culture in developing co-governance and partnerships in biosecurity decision-making, and recognising the impacts of invasive species on Traditional Owners and their role in managing invasives. It pointed to New Zealand’s legislative reforms to incorporate mechanisms that implement practical and measurable outcomes relating to Traditional Owners:

We support the Victorian government’s intent to use the Self-Determination Reform Framework principles in developing an inclusive model for this legislation. Consolidating or closely linking with the Aboriginal Heritage Act 2006 will be important to achieving this, and more clearly recognising both the impacts on traditional owners by invasive species as well as their role in management.

Safeguarding natural habitats and cultural connections to land is a principle that should be enshrined in the new Act, including the development of relationships and collaboration incorporating traditional knowledge and culture. It is critical that this is properly articulated with real outcomes and mechanisms to achieve the desired goal, and not as a symbolic gesture.

Topic 3 – What new tools for managing biosecurity risks should be included in legislation?

Submissions highlighted various ways the reform could strengthen the management of biosecurity risks. Improving and expanding Victoria’s biosecurity traceability requirements was a key theme of feedback. There was support for introducing a general biosecurity duty in Victoria’s biosecurity legislation.

Traceability

Improving and expanding the ability to identify and track the origins and movements of plants and animals in Victoria drew strong interest.

- **Australian Pork Limited** highlighted the inconsistencies in Victoria’s current traceability obligations, assurance and certification requirements:

The reform provides an opportunity to fix these inconsistencies and support industries, such as the pork industry which uses PigPass as a national tracking system, to further collaborate through the Jurisdictional Traceability Group with regard to industry traceability.

- The **Australian Veterinary Association** emphasised the need for a national approach to strong animal traceability in recognition of the movement of animals across state borders.
- **Citrus Australia** supported expanding traceability requirements in its sector to help ensure that Victoria’s citrus stock is grown and sold as diseased-tested and with the ability to track sales for product assurance. Any provisions in Victoria’s legislation should align with traceability and quality assurance requirements and systems of other states and territories.
- The **Nursery and Garden Association of Victoria** said there was a need to improve traceability across its industry, suggesting that mandatory property identification codes may be a solution while noting the challenges of regulating a sector with increasing online sales across borders, as well as diverse participants that include small and individual players:

... Any legislative reform must address the growth in these risk creators and educate them on their role in the continuum. One option could be through mandatory property identification codes.

We believe it should be a key priority for legislative changes to capture every risk creator, but not all are equal, so consideration of a reduced risk profile should be given to those that are considered good corporate citizens.

- The **RSPCA Victoria** said the reform could address gaps and inconsistencies in the current biosecurity framework:

Consolidating Victoria's biosecurity laws is a good opportunity to address current gaps in the biosecurity framework. For example, there are currently different levels of traceability for different species of livestock and a variance in enforceable undertakings across sectors, which could be streamlined within the new reform.

The RSPCA advocated for expanding Victoria's animal traceability provisions, highlighting the lack of a state or national horse traceability system. Mandatory microchipping of horses to enable tracking was called for. The RSPCA highlighted how the inability to trace horse movements during the 2007 Equine Influenza outbreak in New South Wales and Queensland had hampered response efforts, increasing disruption and response costs. It noted that horse traceability for biosecurity had been recommended by an Australian Government Senate Rural Affairs and Transport Committee, which had also conducted a feasibility study.

- The **Victorian Forests Products Association** said while there were calls to expand traceability requirements in the horticultural industry, it was important that forest products were not captured in any reforms, which would unnecessarily increase compliance effort and costs:

...forestry has a different model and forest products are not food products with significantly higher mobility and thus biosecurity risks across Victoria.....The industry already knows where the wood comes from (forest / compartment).

General biosecurity duty

There was support for introducing a general biosecurity duty in the reformed legislation. The importance of an effective communication program was highlighted.

There was general support for setting a general biosecurity duty in legislation.

- The **Australian Veterinary Association** highlighted that guidelines, standards and codes of practice would be important supporting tools for educating what constitutes a duty of care, and for people to be able to demonstrate they had met their duty of care.
- **Citrus Australia** agreed with a general biosecurity duty but noted the objective would only be achieved 'if it is enforceable, ramifications are clear, and the obligation is understood'.
- The **Invasive Species Council** highlighted that Victoria could learn from the experiences of other Australian jurisdictions that have set a general duty in their biosecurity legislation:

...A broad ranging duty of care is important because there is no practical way of regulating all actions that could lead to negative impacts. The irresponsible actions of a few could impact generations. A legal obligation needs to be complemented by public education programs that motivate a personal responsibility and a serious approach to biosecurity.

While other jurisdictions have applied this concept for more than 5 years, it has been poorly applied in practice. There needs to be significant communication to build public awareness of their obligations, and guidance provided by the government on how it applies in common scenarios in order for the general public to be properly aware of how the duty relates to their actions. While the concept is positive and has potential for success, it needs to be well implemented in order to achieve the goals set.

- The **Nursery and Garden Industry Association of Victoria** supported a general biosecurity duty that, highlighting that it must be accompanied with an accessible, clearer, harmonised, and reasonable approach to the rules.

- The **Victorian National Parks Association** said that duty of care obligations and polluter pays provisions would encourage landowners to take responsibility for managing invasive species on their properties:

.... although there are provisions within the Catchment and Land Protection Act 1994, it is poorly enforced and regulated particularly when invasive species are impacting environmental concerns, instead focusing heavily on agricultural interests.

- The **Victorian Farmers Federation** strongly supported a general biosecurity duty in legislation for ensuring everyone knows they have roles and responsibilities in biosecurity.

Permitted listings

Some highlighted the opportunity to improve the tools for classifying invasive plant species in Victoria to reduce their risk of entry.

- The **Invasive Species Council** saw opportunity to reform how invasive weeds are classified in Victoria, shifting from the current 'prohibited' listings to the more expansive approach of 'permitted' listings:

The current method of listing species is a 'prohibited listing', which allows for only a miniscule fraction of the world's plant taxa. In consolidating functions and powers from the Catchment and Land Protection Act 1994 into the new Biosecurity Act, we recommend this be updated and modernised to ensure effective listing and declaration of weeds of environmental significance is performed...

...Only a small subset of the 30,000 or so exotic plant species in Australia have been assessed for their invasive risk in Victoria, and only about 120 are declared noxious weeds. Rather than banning just a few high priority species, Victoria needs to move to a permitted list approach, which prohibits the introduction of plants into Victoria unless they have been assessed as 'safe' (at low risk of becoming invasive). This includes plants native to Australia but not indigenous to Victoria. There will also need to be a mechanism to regulate the trade and planting of species native to a part of Victoria that may be invasive in other parts of Victoria.

- The **Victorian National Parks Association** also called for the reform to create a permitted or 'white' list of potential pest plant species before they are permitted entry into Victoria, noting that Western Australia has adopted this approach of weed listing since 1997:

The current listing system or black list system, results in bans on species that have already established, which is often too late to eradicate them. This system can also be slow and onerous and does not operate with the urgency needed to avoid new infestations of pest plants.

Compliance and enforcement

Opportunities to strengthen biosecurity compliance and enforcement provisions were identified by some submissions. Some pointed out that any new or improved compliance and enforcement provisions must be practical and realistic.

- **Citrus Australia** noted that new or enhanced compliance and enforcement tools and laws should be assessed for their practicality, and highlighted the importance of compliance and enforcement partners:

During development, it will be important to assess how realistic it will be to enforce the new legislation with available biosecurity compliance and police resources. Once developed, the success of the legislation will hinge upon how it is integrated into the culture and activities of key supporting agencies, such as the Victoria Police, local governments, Catchment Management Authorities, water authorities, as well as public and private land managers.

- The **City of Greater Geelong** submitted that its experience was that current biosecurity legislation is inadequate at ensuring all landowners and land managers fulfill their legal weed and pest control obligations under the *Catchment and Land Protection (CaLP) Act 1994*. It linked this to a lack of Victorian Government compliance and enforcement action, but also thought revising the legislation could help:

Recalcitrant landowners know that they can get away with not fulfilling their legislative responsibilities, whilst those that are responsible on their properties become increasingly frustrated and give up. The City of Greater Geelong recommends strengthening the wording in the reformed legislation to achieve higher success rates when recalcitrant landowners are taken to court and to make Victorian Government agencies more accountable for fulfilling their legislative requirements so there are consequences for inaction.

- **Golden Plains Shire** highlighted that compliance and enforcement is the top issue of residents relating to pest plants and animals, and many were frustrated at the lack of council authority to undertake compliance and enforcement. It could see merit in introducing enforceable undertakings provided they could be delivered in a timely and efficient manner. The Shire noted that compliance and enforcement measures in current legislation were complicated and lengthy 'due to poorly written legislation' and considered the reliance on community-led engagement programs seemed a flawed model, potentially placing community members in conflict with recalcitrant landholders.
- The **Victorian National Parks Association** submitted that provisions currently in Victoria's *Catchment and Land Protection Act 1994* (CaLP Act) for controlling weeds could be strengthened, including the ability to access properties to assess weed infestations, and the deliberate transport and release of feral species:

The CaLP Act is wholly inadequate for the control of weeds. Prosecution of private land holders for failure to control Weeds of National Significance (WoNS) is rarely successful, often because they argue they are being singled out, why isn't everyone else also being prosecuted? Control of WoNS needs a carrot and stick approach and here the stick is absent.

... It may be that a suite of financial mechanisms to incentivise private land holder behaviour for the public interest need to be codified...

Controls on weed species must also focus on the harms done to the environment through the measures put in place to control the weed species. The effects of large-scale herbicide application are an obvious case in point. The Act must ensure that there is a duty of care to minimise secondary impacts of biosecurity measures, in particular to the environment.

Co-regulation

It was agreed that reformed legislation could better support co-regulation by recognising third-party assurance and traceability systems. Submissions highlighted how effective co-regulation can reduce regulatory burden and strengthen the biosecurity system, including the response to biosecurity emergencies.

- The **Australian Veterinary Association** submitted that if greater co-regulation is pursued as part of the reform: *'then resourcing the delivery of the public good that this provides must be a shared responsibility. In the context of the veterinary sector the AVA believes that adequately resourcing public-private partnerships between the government and private veterinary sectors, and development of a coordinated framework for disease surveillance, prevention, and control, is key to success of this shared approach'*.
- The **Invasive Council of Victoria** supported co-regulation but highlighted the approach mainly applies when the impact is financially measurable, and the responsible parties have the capacity and ability to co-regulate the risk with government:

Environmental incursions or responses are different, in that there is no immediate source of funding or incentive for funding as industry. It is imperative that in designing the co-regulation with partners into aspects of the legislation such as traceability and compliance, appropriate mechanisms are also developed for environmental risks and responses to non-compliance. For example, the deliberate release of an invasive fish species under this model [outlined in the discussion paper] would not necessarily result in the fishing industry paying for eradication, or the suspension of licence for the perpetrators. The model suggested in the discussion paper would not work for impacts from environmental invasive species, and an equivalent should be developed to ensure compliance penalties and effective deterrents are consistent.

- The **Nursery and Garden Association of Victoria** supported recognising third-party programs as long as this is balanced with acceptable levels of risk. It highlighted the benefits of reforming the legislation to enable the delegation of authority for low-risk business-as-usual activities and according to competencies, roles and responsibilities.

- The **Victorian Farmers Federation** and **Australian Pork Limited** promoted the Australian Pork Industry Qualification Program (APIQ) as a good example of an industry scheme which could be recognised under co-regulatory arrangements.

They highlighted the Voluntary Enhanced Biosecurity Standards – APIQ Verification Model C, which was introduced to assist with risk assessments undertaken by jurisdictions to authorise the movement of live pigs and semen in the event of an African Swine Fever outbreak in Australia. The model was designed to support business continuity during an outbreak, and to reduce the need for government to enact permitting systems.

- The **RSPCA Victoria** submitted that while there was a place for co-regulation in a consolidated Biosecurity Act, it was important that adequate independence, accountability and transparency safeguards were built into the framework. It submitted that risks could be managed with appropriate reporting to authorities and audits by regulators. It was also important that core regulatory functions such as the investigation of non-compliances and the imposition of penalties for non-compliance were retained.

Resourcing

Many submissions highlighted that setting a general biosecurity duty and providing new tools to reduce biosecurity risks requires a focus on compliance and enforcement. They linked successful compliance and enforcement to appropriate resourcing and funding.

- For example, **Landcare Victoria** submitted that: *Many – perhaps most – of the biosecurity issues Landcare faces today arise not from shortcomings in established legislation but from a shortage of resources.*

Landcare Victoria said that reforms such as the setting of a general biosecurity duty would be a ‘toothless tiger’ if not backed with appropriate enforcement powers and resources. While it saw the value in adding enforceable undertakings to the compliance and enforcement toolbox Landcare Victoria noted:

Landcare groups frequently complain that the current approach of so-called community-led compliance amounts to Agriculture Victoria and other agencies abandoning the problem to the community. What Landcare needs is strong and effective backing from Agriculture Victoria and other relevant agencies to support its community leadership. The Act should include mechanisms to facilitate this. In this regard, the concept of an enforceable undertaking may be very helpful and inclusion of such a power in a new Act merits support.

- The **Victorian National Parks Association** highlighted that building community knowledge of biosecurity risks as well as reporting mechanisms was important if a general biosecurity duty was set in legislation:

But it must be highlighted that volunteers and community groups cannot and should not shoulder the full burden of this type of community outreach alone and should very much be led by government through funding of regional or species coordinators who work closely with local groups, or added resources and funding for Landcare and Coastcare facilitators.

- The **Nursery and Garden Association of Victoria** (NGIV) supported a general biosecurity duty but noted that:

NGIV has, in the past, and continues to carry the cost and responsibility for industry-wide communication on behalf of government for our broad remit of stakeholders.....While we accept this responsibility, in the future it may be unrealistic for government to rely on bodies such as NGIV as the vehicle for information distribution, unless changes to the system reflect the value this service provides and opens dialogue to explore how this can be better supported.

Other feedback

- **Animal Medicines Australia** noted the importance of the legislation providing the capability and flexibility to respond quickly to emerging threats and emergency situations, including coordination and collaboration with federal-level frameworks and stakeholders:

This could include streamlining the process for emergency use approvals and permits, fast-track systems to source essential veterinary medicines across international, federal and state borders, and risk-based flexibility in satisfying non-critical regulatory requirements.

- The **Invasive Species Council** recommended that reformed legislation include a requirement for a State of Biosecurity report to be prepared and published by the Victoria Government every four years.
- **Landcare Victoria** and the **Invasive Species Council** said the reform was an opportunity to legislate for the role of a Victorian Chief Environmental Biosecurity Officer.

The Invasive Species Council also called for the Biosecurity Reference Group to become a statutory committee, and recommended a science advisory committee to advise the Minister:

This scientific advisory function would be able to contribute to the National Environmental Biosecurity Response Agreement (NEBRA) and National Management Group (NMG) decision making, in regards to Victoria's contribution and priorities.

- Similarly, the **Victorian National Parks Association** recommended that reformed legislation could provide for regional weed committees involving government, community representatives and land managers to develop strategies and *long-term* allocation of resources.
- The **Victorian National Parks Association** also called for the development of a Marine Biosecurity Strategy.
- The **Victorian Farmers Federation** recommended that biosecurity legislation require public land managers to include in their annual reports a statement on how they had met their biosecurity obligations, and to highlight any areas requiring investment in research or on-ground management.

The Victorian Farmers Federation also recommended that reformed legislation include a requirement for government agencies and utilities to report against compliance with on-farm biosecurity plans where a land access arrangement (such as camping on Crown water frontages) is in place, or where farmland is accessed by government agencies and utility providers.

- **RSPCA Victoria**, **Animal Care Australia** and the **Humane Society International Australia** raised various matters relating to biosecurity and animal welfare, including that biosecurity animal management activities should be monitored and evaluated for compliance with animal welfare laws, and results publicly reported.