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Submission to the Senate Standing Committee on Rural and Regional Affairs and Transport (RRAT) Inquiry on the Biosecurity Bill 2012 and the Inspector-General of Biosecurity Bill 2012

The Australian Forest Products Association (AFPA) welcomes the opportunity to provide comment to the Senate Standing Committee on Rural and Regional Affairs and Transport (RRAT) Inquiry into the Biosecurity Bill 2012 and the Inspector-General of Biosecurity Bill 2012 (*Bill*). This comment follows and is associated with our feedback to the Department of Agriculture, Fisheries and Forestry (DAFF) on the *New Biosecurity Legislation* in October 2012 (appended as **Attachment 1**).

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products.

AFPA and our members have a substantial interest in quarantine and biosecurity issues across the biosecurity continuum, from pre-border, border and post border, and both exotic and endemic pests and diseases. AFPA members own and/or manage large tracts of commercial hardwood and softwood plantations, and managed natural forest in all States. In addition, AFPA also represent wood processors including sawmillers and paper product manufacturers. Our members are importers and exporters of a wide range of plant material, wood and paper products (such as genetic material, seed/seedlings, logs, woodchips, sawntimber, engineered wood products, and paper products) and are subject to quarantine requirements of both Australia and other countries.

There is also a significant amount of intra and interstate trade in logs, woodchips, wood and paper products forming complicated and interrelated pathways for the potential transfer of pests, diseases and biosecurity risks. As a result, market access and biosecurity are of importance for the forest, wood and paper products industry. AFPA and our members have a keen interest in ensuring an efficient and effective legislative framework and regulation of biosecurity.

Our industry takes its biosecurity responsibility seriously and makes a substantial investment in biosecurity but we cannot be responsible for what occurs outside the forest/area we manage. For example, industry invests in forest health surveillance as a routine matter of commercial importance and risk management, and this will help to identify exotic pest incursions which may occur in both the plantation and managed native forest estate.

However, the majority of the commercial forest estate in Australia is located a long way from the major risk areas (i.e. ports) and there are a large number of potential host trees (parks, gardens, and conservation reserves) which are more likely to be infested by exotic pests and diseases long before there is an infestation of a commercial forest or timber plantation. It seems highly likely that, in many instances, if a pest is found in a commercial forest plantation it will already be widespread and difficult to eradicate.

The Bills

AFPA appreciates, and sees considerable merit, in the objectives of the Bills (i.e. *better manage pests and disease biosecurity risks delivering flexible powers to efficiently and responsively manage these risks*) and the intent to update the existing legislation.

However, there is still significant uncertainty as to whether the proposed Bills will achieve the aims, and be effective, equitable and efficient. The complexity and broad scope of the proposed Bills entails a large and difficult task of policy implementation including the development of associated regulations.

The integration of biosecurity activities by the Commonwealth, state and territory governments, industry participants and other stakeholders along the biosecurity continuum is extremely important, and reformed arrangements must tread the fine line between collaboration and responsiveness to be efficient and effective, especially in an emergency response situation.

Key Issues

AFPA supports the general intent of the Bills, and recognises their potential flexibility, outcomes focused orientation, and attempt to reflect as much of current practice as possible. It is in industry's and the wider economy's best interest that the goal of the proposed Bills should be a biosecurity framework which is consistent, streamlined, flexible, clear and unambiguous, equitable, effective and efficient in order to achieve the desired outcomes at the lowest possible cost.

The key issues for the forest industry, that will need to be considered and addressed in this draft legislation, associated regulations and related processes are:

- the consultation process on these Bills has not been optimal and it is difficult to understand the entire framework without the accompanying subordinate legislation, regulations, and subsidiary documents and guidelines. AFPA and other stakeholders will need to be comfortable that these will be equitable, effective and efficient.

- the jurisdictional interface (between State and Federal, border and post-border) will continue to need clarification and ongoing work including the defined biosecurity zones;
- the current imported goods risk focus and not a sufficient focus on internationally traded packing materials;
- responsibility/cost sharing issues between Government and industry; and
- effective and efficient implementation of the biosecurity framework.

Summary

AFPA strongly urges that the identified issues above and the content of our previous feedback in October 2012 (appended as **Attachment 1**) are considered and addressed as the Bills progress through Parliament, and during the subsequent development of associated regulations.

Thank you for the opportunity to provide comments to the RRAT Inquiry on the Bills. AFPA is available to discuss the issues raised in this submission in more detail and welcomes additional opportunities to provide further comment.

Attachment 1: *'AFPA October 2012 Submission on the 'New Biosecurity Legislation' to the Department Of Agriculture, Fisheries and Forestry.'*



SUBMISSION

New Biosecurity Legislation for Consultation

October 2012

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Introduction

The Australian Forest Products Association (AFPA) welcomes the opportunity to comment on the *New Biosecurity Legislation (the Bill)*.

AFPA is the peak national body for Australia's forest, wood and paper products industry. We represent the industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forest, wood and paper products.

This submission from AFPA is made on behalf of industry, and builds on previous industry engagement on the *Beale Review* and via ongoing consultation with Government on biosecurity issues.

The Forest and Wood Products Industry and Biosecurity

The forest and wood products industry is one of Australia's largest manufacturing industries with an annual turnover of \$21.4 billion. It contributes around 0.6 per cent to Australia's gross domestic product and 6.7 per cent of manufacturing output. Approximately 76 800 people are directly employed in the industry, including 13 200 people in the forestry and logging sectors and 63 600 people in the wood manufacturing sectors (DAFF 2010). The forest and wood products industry is predominately regionally based and socio-economically very important.

AFPA and our members have a substantial interest in quarantine and biosecurity issues across the biosecurity continuum, from pre-border, to border, to post border, and both exotic and endemic pests and diseases. AFPA members own and/or manage large tracts of commercial hardwood and softwood plantations, and managed natural forest in all States. In addition, AFPA also represent wood processors including sawmillers and paper product manufacturers. Our members are both importers and exporters of a wide range of plant material, wood and paper products (such as genetic material (seed/seedlings), logs, woodchips, sawntimber, engineered wood products, and other wood and paper products) and are therefore subject to quarantine requirements of both Australia and other countries.

There is also a significant amount of intra and interstate trade in logs, woodchips, wood and paper products forming complicated and interrelated pathways for the potential transfer of pests, diseases and biosecurity risks. As a result market access and biosecurity are of importance for the forest, wood and paper products industry. AFPA and our members have a keen interest in ensuring an efficient and effective legislative framework and regulation of biosecurity.

The plant species present in managed native forest and plantations that AFPA members own and/or manage are prevalent across the landscape and across land tenures in natural forests and urban environments, thus the biosecurity risks and responsibilities are not exclusive to our industry rather there is a significant public good aspect. This significant public good aspect underpins a lot of the key points detailed in this submission.

Our industry takes its biosecurity responsibility seriously and makes a substantial investment in biosecurity across the board, but we cannot be responsible for what occurs outside the forest/area we manage. For example our industry invests in forest health surveillance and this will help to identify exotic pest incursions which may occur in both the plantation and managed native forest estate.

However, the majority of the commercial forest estate in Australia is located a long way from the major risk areas (i.e. ports) and there are a large number of potential host trees (parks, gardens, and conservation reserves) which are more likely to be infested by exotic pests and diseases long before there is an infestation of a commercial forest or timber plantation. It seems highly likely that, in many instances, if a pest is found in a commercial forest plantation it will already be widespread and difficult to eradicate.

The Proposed Bill

AFPA appreciates, and sees considerable merit, in objectives of the Bill (i.e. *better manage pests and disease biosecurity risks delivering flexible powers to efficiently and responsively manage these risks*) and the intent to update the existing legislation.

However, there is still significant uncertainty as to whether the proposed Bill will achieve the aims, and be effective, equitable and efficient. The complexity and broad scope of the proposed Bill entails a large and difficult task of policy implementation including the development of associated regulations and related documents.

The integration of biosecurity activities by the Commonwealth, state and territory governments, industry participants and other stakeholders along the biosecurity continuum is extremely important and reformed arrangements must tread the fine line between collaboration and responsiveness to be efficient and effective, especially in an emergency response situation.

General Industry Comments on the Proposed Bill

AFPA supports the general thrust of proposed Bill, and recognises its potential flexibility, outcomes focused orientation, and attempt to reflect as much of current practice as possible.

It is in industry's and the wider economy's best interest that the goal of the proposed Bill should be a biosecurity framework which is consistent, streamlined, continually simplified, flexible, clear and unambiguous, equitable, effective and efficient in order to achieve the desired outcomes at the lowest possible cost.

- ***Consultation Process***

AFPA appreciates that the proposed Bill is high level and that it is difficult to understand the entire framework without the accompanying subordinate legislation, regulations, and subsidiary documents and guidelines. AFPA and other stakeholders will need to be comfortable that these will be equitable, effective and efficient.

In terms of the consultation process to date, it is disappointing that there wasn't a broader opportunity to workshop these arrangements prior to final release. The Bill should be viewed as a positive opportunity to openly discuss useful and effective reform. However, the staggered release of key chapters, coupled with tight consultation and changing timeframes for this consultation has adversely affected stakeholder perception of the Bill's proposed framework.

- ***Jurisdiction Interface and 'Biosecurity Zones'***

AFPA notes the need to define the biosecurity continuum, especially the distinction between 'border' and 'post-border' measures and the role of Federal and State government within this continuum. Previously AFPA has been concerned that this distinction, and the resulting division of responsibilities between DAFF Biosecurity and State Governments, may have resulted in suboptimal outcomes with respect to the monitoring and management of the areas immediately adjoining ports. This represents a major risk and opportunity with respect to the establishment or control of exotic forest and timber pests. AFPA has been encouraged by the increased investment in pest trapping programs at ports in Australia by various governments.

We appreciate that the proposed provisions in Chapter 6 of the Bill regarding establishing biosecurity zones (i.e. biosecurity response zone, biosecurity monitoring zone and biosecurity activity) potentially defines a framework that seeks to address these issues. As the Bill is implemented, AFPA requests that the Australian Government continues to invest in this area as it is essentially a part of the border and provides a most effective means of monitoring for border breaches.

There has been ongoing concern that, partly as a result of the large number of organizations with an interest in this surveillance work (e.g. DAFF Biosecurity, State agencies, industry etc.), there has not been sufficient information made available to relevant industries such as research, developments or findings concerning intercepted pest and diseases, new trapping methodologies, location of trapping systems etc. Provision in the Bill or supporting documentation should be made to enable this important information flow to occur between stakeholders in the biosecurity continuum.

- ***Import Risk Focus***

Due to the rapid growth and changing patterns in international trade, Australia faces increased risks from exotic pests and diseases that can be accidentally introduced by passengers, imported commodities, packaging material and transport vessels (such as cargo containers). AFPA remains concerned that, with respect to forest pests, the Australian quarantine arrangements are too focused on imported goods/commodities (primarily sawntimber etc.) and not sufficiently focused on packing materials (which are often made of low grade wood and more vulnerable to pests and diseases) and cargo containers. These potentially represent a much higher risk. Packing materials and cargo containers are of significant concern because of their widespread and unknown movement both within Australia and in other countries.

AFPA appreciates progress has been made in the implementation of *'International Standards for Phytosanitary Measures No. 15: Guidelines for regulating wood packaging material in international trade (ISPM 15)'*. However, concerns remain that imported packaging timber moving represents a significant risk to Australia's forest and plantation estate, and wood products in use. Australian exporters have invested significant funds in meeting ISPM15 requirements, but it is not clear that other countries exporting to Australia are meeting the same standard.

- ***Responsibility Sharing and Implementation of Framework***

As detailed previously, the plant species present in managed native forest and plantations that AFPA members own and/or manage are prevalent across the landscape and across land tenures in natural forests and urban environments, thus the biosecurity risks and responsibilities are not exclusive to our industry rather there is a significant public good aspect.

AFPA notes the increased emphasis throughout the proposed Bill and RIS on responsibility sharing, be it with industry, State Governments or other stakeholders. In the absence of effective implementation of the framework having an efficient and up-to-date biosecurity framework is only half an achievement. AFPA reiterates that the Government needs to allocated and effectively implement appropriate capacity and resources to protect the biosecurity continuum to ensure that the aim of preventing harm to people, the environment and the economy is met.

Specific Comment on the Proposed Bill

We offer the following comment in response to the provisions (that are relevant to our industry concerns) contained in the chapters of the proposed Bill.

- ***Chapter One: Preliminary***

AFPA supports in principle a planned and timely transition from the old Act to the new Act to allow effective implementation and the opportunity to address any potential issues that arise.

AFPA notes the inclusion of the Appropriate Level of Protection (ALOP) in the text of the Bill which has previously been described outside the legislation. AFPA appreciates the continuation of the current definition of ALOP *'providing a high level of sanitary and phytosanitary protection, aimed at reducing risk to a very low level, but not to zero'*. A high level of biosecurity protection from damaging pests and diseases is required to underpin the continued sustainability and world competitiveness of Australian industry.

- ***Chapter Two: Managing biosecurity risks: human health***

No specific comment

- ***Chapter Three: Managing biosecurity risks: Goods***

The Bill proposes that *the Director of Biosecurity will be responsible for undertaking Biosecurity Import Risk Analyses (BIRAs) to address biosecurity risks to achieve the ALOP, and will have the power to make guidelines setting out matters to be taken into account in conducting a BIRA.*

To adequately protect Australian industries from pest and disease threats, thorough and timely import risk assessments should be undertaken, underpinned by the best and most up-to-date scientific information available. AFPA notes:

- the increased powers and responsibilities on the Director of Biosecurity;
- the absence of both a clear set of guidelines and requirements for BIRA; and
- the important role of the Eminent Scientists Group (ESG) and the need for it or a like body to continue.

To make effective evidence based decisions in a BIRA requires significant expert knowledge and capacity which may be deficient under the current arrangements. Appropriate provisions should be included for expert input from the ESG or a like body with relevance to industry, to ensure scientific rigour and impartiality. Further an independent appeal process based on facts and science should be included.

- ***Chapter Four: Managing biosecurity risks: conveyances***

No specific comment.

- ***Chapter Five: Ballast Water***

No specific comment.

- ***Chapter Six: Prevention and control measures***

It is extremely important for the forest, wood and paper products industries that these provisions work effectively and efficiently. AFPA appreciates the intent for broader, more flexible powers and arrangements on-shore to manage incursions of pests and diseases. However we stress that effective implementation of these structures is of paramount importance, particularly where they interface/integrate with existing state controls and responsibilities.

The proposed Bill has provisions for *if a biosecurity risk is not apparent when it enters Australia or emerges from an unknown source, the Commonwealth has the powers necessary to work with States and Territories to manage the risk and help prevent pests and diseases from negatively impacting upon our local industries and economy.*

AFPA sees merit in the provisions regarding biosecurity zones (i.e. biosecurity response zone, biosecurity monitoring zone and biosecurity activity) to manage the risk and help prevent pests and diseases from negatively impacting upon industries and economy, as well as the permanent monitoring zone approach. This framework should be effectively and efficiently integrated with states controls and responsibilities to ensure a quick and coordinated response.

There are many technical and scientific considerations that need to be taken into account when managing an incursion and these need to be better described in the proposed Bill or supporting documents. Although it is mentioned in the proposed Bill, it should be made clearer that there should be appropriate provisions for compensation for impacts of biosecurity measures on affected properties, to encourage timely reporting and cooperation on biosecurity issues.

- ***Chapter Seven: Approved Arrangements***

AFPA appreciates the increased flexibility inherent in the approved arrangements and sees that it would be a cost-effective pathway if it operates effectively. However it needs to be coupled with a rigorous, effective and appropriate accreditation, auditing and performance monitoring system that includes provisions for the amendment, suspension or revocation of the approved arrangement. This is necessary to ensure that the approved arrangement continues to operate effectively and not cover a potential biosecurity risk point.

- ***Chapter Eight: Emergency provisions***

It is difficult to make a specific comment in this area without the subordinate legislation, regulation and supporting documents. Regarding emergency response, AFPA reiterates that the Government needs to have appropriate capacity and resources to protect the biosecurity continuum to ensure that the aim of preventing harm to people, the environment, and the economy is met.

- ***Chapter Nine and Chapter Ten: Compliance and enforcement***

AFPA reiterates that the audit and performance review functions must be effectively structured and resourced (both \$ and capacity) to ensure that the structures detailed in the proposed Bill (such as 'approved arrangements' and 'biosecurity industry participants') are effective, efficient and complying with their approved arrangements and responsibilities under the proposed Bill.

- ***Chapter Eleven: Governance and officials***

No specific comment.

- *Chapter Twelve: Miscellaneous*

It is difficult to make a specific comment in this area without adequate knowledge of the subordinate legislation, regulation and supporting documents. AFPA has significant concerns regarding cost recovery especially as it relates to pests and diseases that have strong public good implications (i.e. most if not all pests and diseases that affect forest, wood and paper industries). AFPA reiterates that the Government needs to have the appropriate capacity and resources to protect the biosecurity continuum to ensure that the aim of preventing harm to people, the environment, and the economy is met. Any cost recovery proposal should reflect public good principles, be fair, equitable, cost effective and subject to review from a commercial point of view.

Summary

AFPA is grateful for the opportunity to comment on the *New Biosecurity Legislation (the Bill)*. In general, AFPA supports the thrust of proposed Bill and recognises it brings greater flexibility and its attempt to reflect as much of current practice as possible. It is in industry's and the wider economy's best interest that the goal of the proposed Bill should be a biosecurity framework which is consistent, streamlined, continually simplified, flexible, clear and unambiguous, equitable, effective and efficient in order to achieve the desired outcomes at the lowest possible cost.

AFPA would be keen to discuss the issues raised in this submission in more detail. AFPA welcomes additional opportunities to provide any further comment on the proposed Bill, participate in the implementation of the Bill, and the development of subordinate legislation, regulations and guidelines where possible. We look forward to the Bill's improvement by the addressing of concerns detailed in this submission.

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