

# Labor Senators' Dissenting Report

## Biosecurity Bill 2014

1.1 Labor Senators do not agree with clause 567 of the Biosecurity Bill 2014 that provides the Agriculture Minister with review powers that will allow him to conduct reviews into the biosecurity system to identify opportunities for improvements in the assessment and management of biosecurity risks.

1.2 Labor Senators also do not agree with clause 643 – Delegation of powers by Agriculture Minister. This clause allows the Agriculture Minister to delegate any or all of his or her powers and functions under the Act (and any regulations made under the Act) to the Director of Biosecurity, an SES employee, or acting SES employee in the Agriculture Department, except for those relating to the Minister.

1.3 Labor Senators acknowledge concerns raised by submitters regarding the proposed review process under clause 567 and 643. The proposed review process was condemned as a ‘backwards’ and ‘retrograde’ step that would potentially allow conflict of interests.

1.4 Submitters highlighted key differences between the Biosecurity Bill 2014 clauses 567 and 643 and the review process designed under the Inspector-General of Biosecurity Bill 2012. Specifically, submitters noted with concern the proposed discretionary timing, conduct and scope of the reviews and the internal, confidential nature of review findings would not guarantee independent transparent review for example, the Australian Veterinary Association stated:

If the Inspector-General’s role is designed to be similar to that of an ombudsman (as described in the Beale Review) the public must be able to refer matters directly to the Inspector-General.<sup>1</sup>

1.5 AUSVEG stated:

Clause 567 states that “... as the review powers are provided to the Minister, reviews will be conducted independently from the Department, ensuring independence between the subjects and the review (biosecurity officials) and the powers of the person conducting the review.” However, as the powers for conducting a review into the biosecurity system lie with the Minister for Agriculture and may be conferred by the Minister for Agriculture, this cannot legitimately be described as an independent review process.<sup>2</sup>

1.6 Labor supports option 2 of the Regulation Impact Statement that determined establishing the role of the Inspector-General of Biosecurity through legislation as a statutory officer, responsible for reviewing the performance and exercise of powers by the Director of Biosecurity, biosecurity officers and biosecurity enforcement officers as well as conducting biosecurity import risk analysis (BIRAs).

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1 Australian Veterinary Association, *Submission 10*.

2 AUSVEG, *Submission 8*.

1.7 This is the preferred option as it would help assure stakeholders and Australia's trading partners of the integrity of the department's processes and would provide an independent, systematic approach towards maintaining and improving Australia's biosecurity system.

1.8 Labor recommends that the Government adopt the recommendation of the Beale review to establish the Inspector-General of Biosecurity as a statutory body.

1.9 Establishing the role of the Inspector-General of Biosecurity through legislation would ensure that there is a statutory officeholder responsible for the independent audit, review and assessment of the department's biosecurity activities and processes. The role and function of the Inspector-General of Biosecurity would align with the Beale Review's recommendation that an effective risk management system should include formal auditing activities.

### **Recommendation 1**

**That the Senate either amend the Bill or request the House of Representatives to amend the Bill to provide for establishment of the Inspector-General of Biosecurity as a statutory body.**

**Senator Glenn Sterle  
Deputy Chair**