



Meat Industry Association of New Zealand (Incorporated)

Submission on Proposed amendments to the Biosecurity Act (1993)

13 December 2024

1. Introduction

- 1) The Meat Industry Association (MIA) is a voluntary, membership-based organisation representing processors, marketers, and exporters of New Zealand red meat, rendered products, and hides and skins. MIA represents 99 percent of domestic red meat production and exports, making the meat industry New Zealand's second largest goods exporter with exports of \$9.9 billion.
- 2) The meat processing sector is New Zealand's largest manufacturing sector that employs over 25,000 people in about 60 processing plants, located mainly in the regions. The sector is a significant employer in many of New Zealand's rural communities and contributes over \$4 billion in household income.
- 3) MIA is a signatory to the Government Industry Agreement (GIA) for biosecurity readiness and response, joining in September 2017. MIA staff are engaged in numerous biosecurity readiness projects and represent Members interests through membership of the Livestock Sector Biosecurity Council.
- 4) A list of members is attached (Appendix A). In drafting this submission MIA members were consulted. Individual members, however, may have also made their own submissions.

2. Executive Summary

- I. MIA is appreciative of the opportunity to provide feedback on the proposals.
- II. MIA recommends that MPI considers defining the term 'public benefit' in the Act.
- III. MIA does not support legislating the cost share framework for GIA. MIA believes that adopting an approach similar to the Australian model, outlined in the EADRA, is desirable.
- IV. MIA supports the cost recovery from non-signatory beneficiaries (NSBs) in principle but is opposed to levying them for the creation of an up-front fund.
- V. MIA supports making limited changes to Biosecurity Act compensation but cautions against restricting entitlements too far.
- VI. MIA recommends that MPI considers moving changes to settings that are only likely to ever be required for response to FMD to Section 145 of the Act dealing with declared Biosecurity Emergencies.
- VII. MIA welcomes the proposal to allow for multiple GIA Deeds but does not support broadening the scope of GIA to include any participant that is unlikely to contribute financial resources as a beneficiary.
- VIII. MIA recommends that MPI works with industry GIA Signatories to design arrangements suitable for 'GIA-led disease control programmes'.
- IX. MIA supports Proposal 37 – Create one or more biosecurity focussed cross-industry organisations – as a strategic opportunity to make enduring improvements in readiness, traceability, disease management and response capability.
- X. MIA recommends that MPI engages with livestock industry Signatories via the Livestock Sector Biosecurity Council (LSBC) to collaboratively develop a white paper to progress Proposal 37.
- XI. MIA opposes adding a 'general biosecurity duty' to the Biosecurity Act.
- XII. MIA recommends that MPI satisfies itself that interfaces with the Animal Welfare Act (1999) and the Animal Products Act (1999) have been fully considered prior to progressing final proposals to amend the Biosecurity Act.
- XIII. MIA recommends that MPI strengthens regulation of feeding food waste to pigs.
- XIV. MIA strongly recommends that MPI develops proposals to require producers to register the location of premises that keep livestock with a national biosecurity farm database.

3. Overview

- 5) MIA welcomes the opportunity to comment on the proposed amendments to the Biosecurity Act ('the Act').
- 6) New Zealand's high biosecurity status with respect to pests and diseases of livestock underpins our exports of red meat products to premium markets.
- 7) The continued high performance of the biosecurity system is essential for the viability of New Zealand's red meat sector because:
 - a) export of livestock products to premium markets requires the maintenance of freedom from a wide range of exotic pests and diseases
 - b) low occurrence of endemic diseases among New Zealand's extensive pastoral farms supports their financial sustainability
 - c) the high health status of pastoral farming in New Zealand enables world-leading standards of animal welfare and minimal use of antimicrobials and other veterinary medicines. These attributes of the provenance of New Zealand red meat products are increasingly demanded by customers and support the sector's competitiveness in the international marketplace.

4. Comments on the Proposals

- 8) Noting the broad scope of the Act and these proposals, MIA has chosen to focus on matters of direct relevance to red meat production and processing, and to MIA's role in representing the interests of its members as a signatory to the GIA Deed. Where no comment is made on a proposal, that is because MIA has declined to form a position rather than because it agrees or disagrees with what's proposed.
- 9) MIA welcomes the review of the Act in providing a timely opportunity to raise other matters related to biosecurity legislation that are not directly referred to in the proposals (see section 5).

OVERVIEW (Part 1)

Question 6: What impacts do you expect to see considered in the full cost-benefit analysis?

- 10) Proper assessment of costs and benefits is a fundamentally important part of the regulatory process and MIA welcomes MPI's acknowledgement of this. These analyses can be very useful in uncovering where assumptions about seemingly reasonable proposals are unsound.

MIA recommends that particular focus be placed on those proposals that will impose administrative or other costs, or deny opportunities for individuals or businesses.

‘Biosecurity affects everyone in New Zealand’ (p6).

- 11) MIA agrees with this as a general statement and the role descriptors provided for the groups of biosecurity stakeholders listed. However, MIA believes that the bullet describing the role the of the ‘general public’ is incomplete by failing to explicitly recognise that the general public is a substantial beneficiary of biosecurity activities.
- 12) In a number of areas, notably related to cost recovery and to cost sharing within the GIA framework, the lack of definition of *public benefit* is problematic. This can hinder the efficiency of negotiations where the relativity of private versus public benefit is material, and lead to inconsistent outcomes.
- 13) Accordingly, MIA recommends that MPI considers defining the term ‘public benefit’ in the Act.

SYSTEM-WIDE ISSUES

Proposal 1 - Insert an overarching purpose clause in the Biosecurity Act

- 14) MIA is supportive of including an overarching purpose clause and wishes to see the following elements reflected in it:
 - a) A statement about risk management being informed by science.
 - b) A statement about giving effect to international agreements.
 - c) Clarification that trade (both imports and exports) is facilitated.
 - d) A statement about proportionality with respect to the imposition of costs and obligations.
 - e) Recognition that protecting the wellbeing of people is necessary.

Proposal 2 – Include new purpose clauses, as well as revise existing purpose clauses, for selected parts of the Biosecurity Act

- 15) MIA believes that also including chapter specific purpose statements will increase transparency and facilitate the purposes of the Act.
- 16) Referring to ‘industry recovery’ in the purpose statement for Section 5A is recommended.

Proposal 3 – Vest a Minister with a ‘call-in’ power

- 17) MIA is supportive in principle of this proposal for enabling a ‘call-in’ power, permitting a Minister to make a decision that would normally sit with a chief technical officer and where the decision relates to imposition of a Controlled Area Notice (Section 131(2)) or application of a control agent from aircraft (Section 114A).

18) MIA considers that the 'significant criteria' proposed to be met before a call-in power can be exercised are reasonable:

- The decision is likely to have significant environmental risk, national security risk, fiscal risk, trade risk, or risk to property rights.
- The decision is likely to pose significant risk to social and cultural values.
- The decision is likely to involve issues that increase risk to, or complexity for, the liability of the Crown.
- The decision is likely to involve issues that have the potential to seriously affect the Crown's reputation.

19) MIA agrees with MPI that option 3A – limit 'call in' powers to the Minister for Biosecurity – is preferable to option 3B. The preferred option is simpler and is less likely to create confusion in an already complex system.

Proposal 4 – Enable local knowledge to inform or guide decision-making in specific parts of the Biosecurity Act

20) MIA has concerns about proposals to introduce specific reference to use of 'local knowledge', with respect to decision making. If the term refers to facts about the immediate geographical location, then it should be unnecessary to specify as it is likely to be already accounted for in 'scientific evidence'.

21) However, if 'local knowledge' is intended to include anything else, then this is inconsistent with domestic and international expectations regarding science-based decision making and may compromise New Zealand's reputation and interests in maintaining rules-based trade.

Proposal 7 – Create an additional infringement penalty for higher risk goods

22) MIA supports the proposal to impose more severe penalties for travellers illegally importing high risk goods. These should include circumstances involving livestock products and other goods that represent a pathway for diseases such as foot and mouth disease (FMD).

Proposal 9 – Amend an existing offence, establish a new offence and corresponding infringement (for breaches of Controlled Area Notices)

23) MIA is supportive of compliance officers having a more useful suite of tools available to deal with breaches of Controlled Area Notices.

24) A \$400 infringement notice for low level offending is at the same level as border and NAIT infringements and appears reasonable.

FUNDING AND COMPENSATION

Proposal 14 – Amending cost-sharing in the GIA

- 25) The primary driver for Proposal 14 appears to be to limit the Crown's share of investment in GIA activities, but this is already possible via the existing arrangements for negotiating Operational Agreements.
- 26) MIA suggests that Crown exposure to the costs of incursions may be more appropriately addressed by strengthening the criteria MPI applies to its investment decisions. For example, recent years have seen substantial investment into attempts to control or eradicate organisms where either the pathway into or around New Zealand cannot be controlled, or where hosts for the pest organisms are ubiquitous, i.e. sustained eradication is not technically feasible.
- 27) MIA does not support legislating the cost share framework for GIA. Consistency and certainty in this area would be beneficial, but MIA believes that a more appropriate way of achieving this would be to adopt an approach similar to the Australian model, set out in the EADRA¹.
- 28) This would instead require a livestock production industries-specific Deed with diseases (and their Crown vs industry cost shares) assigned to one of four or five categories according to their general characteristics and predicted impacts.
- 29) This alternative approach has been favoured by the livestock industry representative organisations for many years and formed the basis for the industries' GIA mandate applications that were approved from 2017 onwards.
- 30) However, (and as noted in paragraph 13 above) including a definition of 'public benefit' in the Act is desirable. This is currently undefined and is frequently a contentious aspect of GIA and pest management plan negotiations.

Proposal 15A – Levy non-signatory beneficiaries to build an up-front fund

- 31) MIA supports the cost recovery from non-signatory beneficiaries (NSBs) in principle but questions the materiality of the issue. The considerable majority of primary production is currently represented within the GIA framework.
- 32) In any case, MIA is strongly opposed to levying NSBs for the creation of an up-front fund owing to the practical challenges, likely costs of administration and considerations of equity.
- 33) The collection and build-up of an up-front fund is inequitable because NSBs would be levied for services that may never be delivered – either because a relevant incursion does not occur or because the sector ceases to materially exist. The proposal fails to account for how this build-up of funds would be used in these cases. It is in effect a biosecurity tax.

¹ Emergency Animal Disease Response Agreement <https://animalhealthaustralia.com.au/eadra/>

- 34) MIA proposes that an alternative to cost recovery from NSBs may be for MPI to clearly and publicly articulate that sectors choosing to remain outside of the GIA framework will be highly unlikely to benefit from MPI readiness and response activities should they be required. This may not adequately incentivise those industries able to free ride on existing agreements but may resonate with those where production involves unique species or production systems.

Option 15B – Levying non-signatory beneficiaries after a response to recover costs

- 35) Setting the materiality of cost-recovery from NSBs aside, MIA prefers option 15B (for NSBs to be levied subsequent to an incursion) to 15A.
- 36) MIA considers option 15B to be the most efficient and equitable for NSBs. It appears to MIA that Option 15B would be unfair if:
- a) the shares of costs expected from NSBs were to exceed their shares of benefits relative to the other participating industries and MPI, and/or:
 - b) no attempt to consult representatives from the sector likely to be cost-recovered as an NSB was undertaken before and during the implementation of the activities for which they were then expected to pay a share of the costs for.
- 37) Should option 15B be implemented, these points need to be accounted for.

Proposal 16 - Refining how non-compliance would make a person ineligible for compensation

- 38) MIA understands and is sympathetic towards the drivers behind seeking to broaden the suite of legislation referred to as 'biosecurity law' to include the NAIT Act (inter alia), as proposed.
- 39) However, MIA urges caution owing to the significant potential issues that attend the prospect of withholding compensation from claimants on grounds of non-compliance:
- a) 'Double-jeopardy' – arguably, non-compliance with legislation should be the subject of legal sanction in its own right. In this regard, withholding compensation entitlements appears to be a measure seeking to address concerns that either enforcing existing legislation is too challenging and/or that the current penalties for non-compliance are perceived to be too lax.
 - b) Proportionality – losses stemming from the exercise of powers can be many millions of dollars and far-exceed the maximum penalties for non-compliance set out in the relevant legislation. MIA is concerned that under these circumstances, any decision to withhold compensation may not withstand legal challenge.

- c) Perverse incentives – the purpose of compensation is to encourage early reporting and compliance with the Act. This applies equally to individuals with, for example, good traceability records and to those with none. MIA fears that the prospect of uncompensated disease control activity, which could be financially ruinous, may lead some non-compliant farmers and others to make decisions that could severely compromise a disease response.
- d) Social license – effective implementation of biosecurity responses requires the active support of producers, processors and others across the affected sector. There is a credible risk that trust and willingness to freely share information with response staff may be fundamentally undermined if it is perceived compensation may be withheld from themselves or others.
- e) Materiality – MIA questions the extent to which those ‘deemed to be unworthy’ because of non-compliance form a significant proportion of claimants.

40) For the reasons above, MIA recommends a two-fold approach as an alternative to addressing the issue:

- a) Penalties, and importantly also the resources allocated to enforcement of ‘biosecurity law’ during peacetime, should be increased. Fear of detection has been proven to be a more significant driver of compliance than the size of sanction².
- b) Withholding compensation should only apply to individuals that knowingly fail to comply with response-specific requirements (RP Notices, CANs etc) or withhold or falsify essential information, for example that required to guide forwards or backwards tracing. Historic non-compliance, even if it subsequently causes an incursion response or compromises its implementation, should not lead to disentitlement.

Proposal 17 – Enabling more detailed compensation entitlements and requirements via regulations

41) MIA supports the use of schedules in regulations, under some circumstances, for the valuation of assets being destroyed. This can provide clarity and certainty to claimants and improve the operational efficiency of stock valuation on farm and claim assessment.

42) MIA proposes that the benefits of this approach are most likely to be realised in emergency situations, and in particular those where very large numbers of animals may need to be destroyed, high volumes of claims can be expected and/or where market values are heavily distorted by the biosecurity event.

43) In this regard, and noting that the section 100Z (4)(e) may already permit this as part of an Operational Agreement under GIA, MIA recommends that MPI considers including this proposal as part of Section 145 dealing with biosecurity emergencies.

² Teodorescu et al (2021). Frequency of enforcement is more important than the severity of punishment in reducing violation behaviors. PNAS Vol. 118 No. 42 e2108507118 <https://doi.org/10.1073/pnas.2108507118>

44) MIA notes that where schedules are used but producers are able to seek independent valuation as an alternative, the scheduled valuation can become a de facto price floor. This occurred during the 2001 outbreak of FMD in England, where despite a generous 'standard rate' being set initially (to encourage uptake), only 4% of farmers chose to apply for this³, with the remainder seeking independent valuation.

Proposal 18 - Removing restrictions on the ability to vary compensation and enable upfront payment of future losses that have not yet been incurred

45) MIA is supportive of this proposal to enable operational efficiencies and to reduce the hardship of claimants. It is also likely to hasten the recovery of a sector. In the livestock sector, for example, it may mean farmers will be able to retain their capital stock.

Proposal 19 - Codify the operational dispute resolution process

46) MIA supports this proposal as it is likely to improve transparency for claimants

Proposal 20 – Stating which types of losses are and are not compensable, including removing some or all consequential losses from compensation

47) MIA supports the proposal to make the provisions relating to compensation for direct losses more transparent and certain.

48) Regarding the options for the treatment of consequential losses, MIA makes the following general points:

- a) The nature of the losses experienced – direct or consequential – has limited bearing on the original purposes for which compensation is available, i.e. to promote early reporting and compliance. From the perspective of the claimant, it is arguably unprincipled to focus limitations on entitlements on payments for consequential losses versus direct losses.
- b) The experience from the *M. bovis* response is clear that payments for consequential losses were essential to maintaining the social license of the response.
- c) The discussion about scope of entitlements often includes references to 'less generous' arrangements that exist in some countries overseas. In seeking to learn from these it is important to also consider New Zealand's unique farming context, and two factors in particular:
 - I. farms and processors operate in the near total absence of state subsidy meaning that production makes up a far greater proportion of total income. Biosecurity measures that impact this production can, therefore, have a disproportionately severe impact on the financial viability of these businesses.

³ Public Accounts Committee (2003)

<https://publications.parliament.uk/pa/cm200203/cmselect/cmpubacc/487/487.pdf>

- II. seasonal extensive pastoral grazing is structured around moving animals to graze pasture and forage in situ. This is unlike red meat production overseas and means that biosecurity response interventions, in particular movement controls, can be particularly operationally and financially disruptive here compared with livestock farming elsewhere.
 - d) Time bounding the period during which compensable consequential losses will be recognised (options 20B and 20C) is attractive from an administrative standpoint. However, there are circumstances where this may be wholly inequitable, for example where a farmer is directed to bury carcasses which subsequently leads to an enduring liability to manage leachate and / or impacts on land value.
- 49) Accordingly, MIA does not believe that a significant reduction in the scope of eligibility for consequential losses is desirable and of the options presented, 20A is generally preferred.
- 50) However, MIA also recognises that there are contingent biosecurity events that would make administering compensation payments extremely challenging, for example an outbreak of FMD.
- 51) Confirmation of FMD in New Zealand would be likely to trigger the declaration of a Biosecurity Emergency, enabling powers specified in Section 145. MIA recommends that MPI considers moving changes to settings that are likely to only ever be required for FMD, to this part of the Act. For example:
 - a) Enabling the use of a schedule for the valuation of livestock slaughtered for disease control and animal welfare reasons (see paragraph 43 above)
 - b) Removing the time limit applicable to the period during which consequential losses are compensable (if Proposals 20B or 20C are introduced as part of changes to the Act)
 - c) Removing entitlements for loss of income associated with area-based movement controls (see paragraph 54, below)
 - d) Clarifying that the costs or losses stemming from directions issued during a declared Biosecurity Emergency are compensable (see paragraph 76, below)
- 52) The overnight loss of access to premium markets anticipated to be caused by any confirmation of FMD in New Zealand will cause widespread and severe financial hardship and significant stress and anxiety in rural communities. If not mitigated, this could be expected to become socially contentious and may materially hinder the eventual recovery of profitable livestock production and processing.
- 53) MIA believes that some form of support from central government for affected businesses, similar to that made available during the COVID-19 pandemic, will be required and that contingency planning for this should be a readiness priority.
- 54) Rather than complicate and overburden the system for assessment of claims for loss of income attributable to area-based movement controls, it may be more

equitable, efficient, and cost effective, to remove this entitlement from the Act (for declared Biosecurity Emergencies /FMD only) and effectively transfer it to all materially affected producers and processors as income support administered by the Ministry for Social Development.

BORDER AND IMPORTS

Proposal 22 – Enable technical amendments to an IHS without consultation, and

Proposal 23 – Enable a rapid amendment process for IHSs during the first year of trade in a good without consultation

55) Proposals 22 and 23 appear to be a sensible approach to dealing with ‘teething problems’ with IHSs.

56) MIA agrees with the commentary that defining ‘technical’ may prove challenging and proposes that amendments made in either case should be open to challenge via a review process if any stakeholders believe these have been made inappropriately.

Proposal 24 - Enable the ability to issue one-off or ad hoc permits for goods being imported as a one-off or on a sporadic basis

57) MIA wishes to stress the importance of New Zealand’s reputation for upholding the spirit and letter of international agreements governing rules-based trade.

58) MIA does not support this proposal. The proposed use of permits effectively side-steps the established regulatory regime and could lead to the integrity of New Zealand’s systems being called into question.

59) Furthermore, if introduced and if the permit requirements are feasible to meet (as is required for the permits to be useful) then the demand for permits can be expected to steadily increase. This risks making New Zealand’s system appear ad hoc or ‘two-tier’ and may undermine biosecurity risk management.

60) The criteria proposed to apply to situations covered by permits, i.e. *one-off* or *irregular* do not seem to apply to the example cited in the document – permitting for an annual event.

Proposal 25 - Enable use of permits to allow trade to continue while a suspended IHS is being reviewed

61) Unlike for sporadic use, the permitting of trade in the specific scenario where an IHS is being reviewed appears more defensible.

Proposal 27 - Improving efficiency in the import health standard review

- 62) MIA recognises the administrative and resourcing challenges faced by MPI where reviews of IHSs can be sought, or threatened, regardless of whether there are genuine grounds to question the relevant scientific evidence.
- 63) However, considerations of fairness require some redress to be available to stakeholders genuinely concerned that IHSs do not adequately manage biosecurity risk or, conversely, are unduly protectionist.
- 64) MIA favours Option 27A – introducing cost recovery for the independent panel convened to review IHSs, which appears to strike a balance between seeking to disincentivise disingenuous requests for review and ensuring stakeholders have adequate recourse to challenge the standard setting process. It seems reasonable to only recover these costs where the panel does not uphold the challenge.

READINESS AND RESPONSE

Proposal 36 – Modify and grow the Government Industry Agreement

- 65) MIA supports the proposal to extend the scope of agreements to cover pest and pathway management as the GIA is administratively efficient when compared with National Pest Management Plan (NPMP) development and implementation.
- 66) Noting that NPMPs usually involve disease or pest control activities undertaken over a longer term than MPI led responses, then the operational delivery, governance, enforcement and legal (inter alia) aspects of this scope extension require further consideration. MIA recommends that MPI works with industry GIA Signatories to design arrangements suitable for 'GIA-led disease control programmes'.
- 67) MIA is similarly supportive of aligning the levying provisions for readiness and response and pest management, which will streamline levy collection and enable greater flexibility for industries in using their GIA levies. It will be incumbent upon the Signatories to ensure levy disbursements are sufficiently transparent to levy payers.
- 68) MIA welcomes the proposal to allow for multiple GIA Deeds. This is supported because:
- a) Making decisions about the existing GIA Deed and administrative arrangements requires the engagement and agreement of all 26 signatories. This makes the process inefficient and challenging to achieve consensus.
 - b) The livestock production and horticultural industries have very limited shared interests in biosecurity operational activity, research, readiness and capability development. MIA is concerned that the 'generic' approach to biosecurity adopted by MPI is the underlying cause for historic under-preparedness for livestock disease emergencies and challenges faced in recruiting and retaining technical experts. MIA believes a livestock industry-specific GIA Deed, and supporting infrastructure, will support prioritisation of investments

into capability that will protect the red meat sector, as currently exists in Australia.

- c) MIA notes that there is no reason why readiness, response and management of pests of pasture and forage could not be governed under a livestock industry Deed.
- d) Implementing a livestock industry-specific Deed is likely to be necessary to support a move towards better alignment of biosecurity service delivery, envisioned in Proposal 37.

69) MIA does not support broadening the scope of GIA to include any participant that is unlikely to contribute financial resources as a beneficiary. GIA, and the mandates obtained by signatories from those they represent, is founded on the principle that decision rights are tied to sharing of costs and responsibilities. Any inclusion of non-cost sharing parties in decision-making undermines this.

70) MIA believes that the current state, where other participants interests are represented by MPI, is satisfactory. Including other participants may also:

- a) undermine the speed and efficiency of decision-making
- b) risks introducing duplication, where sectoral interests are represented by more than one Signatory
- c) lead to conflicts of interest where Signatories have financial incentives to undertake activities subject to joint decision-making

Proposal 37 – Create one or more biosecurity focussed cross-industry organisations to build primary sector skill and resilience

71) MIA is uncertain what specific changes to the Act would be required to enable this proposal.

72) MIA supports this proposal as a strategic opportunity to address fragmentation, gaps and inefficiency in animal health and biosecurity service delivery and to make enduring improvements in readiness, traceability, disease management and response capability.

73) However, the ‘devil will be in the detail’, as there are also many potential risks and issues to characterise and manage before considering system redesign.

74) MIA recommends that MPI engages with livestock industry Signatories via the Livestock Sector Biosecurity Council (LSBC) to collaboratively develop a white paper to progress Proposal 37.

Proposal 38 – Amend Part 5A to state that this confers functions on GIA Signatories to make joint decisions under the Deed and Operational Agreements

75) MIA supports proposal 38, which is intended to extend statutory protection to industry decision-makers participating in biosecurity responses under GIA.

Proposal 39 – Change the decision-maker for a biosecurity emergency from the Governor-General to the Minister for Biosecurity

- 76) MIA supports the streamlining of the process for declaring a Biosecurity Emergency to reduce delays in accessing the powers necessary during the initial stages of an FMD outbreak. These include the full implementation of plans to direct meat processing plants to accept animals in transit at the point when any national movement standstill is declared.

Proposal 40 – Add a general biosecurity duty in the Biosecurity Act

- 77) MIA opposes adding a general biosecurity duty to the Biosecurity Act for the following reasons:
- a) Lack of Clarity – The terms ‘poor biosecurity practices’ and ‘do the right thing’ are too broad and / or subjective for any business or individual to be confident that it has ever properly complied with the duty. This appears to contravene an important constitutional principle – The Rule of Law, which requires that *the law should be clear, and clearly enforceable*⁴.
 - b) Existing biosecurity legislation is sufficient – Many organisms are already regulated as Unwanted Organisms, Notifiable Organisms, and via Pest Management Plans. These rules are based on clear risks and are widely accepted.
 - c) Unwarranted compliance costs – A general biosecurity duty may increase compliance costs for businesses if it leads to unnecessary or excessive biosecurity measures where the costs outweigh the benefits.
 - d) Risk of overregulation – Pests and diseases are part of all agricultural systems, and businesses are primarily responsible for managing them. State intervention should only occur when there is a clear need, such as when risks affect the wider public, and this need (benefit) has been assessed in the context of the likely regulatory impacts.

Proposal 41 – Expand the range of specific risk management requirements that can be set up through regulations under the Act

- 78) MIA does not support this proposal for reasons similar to those cited for opposing Proposal 40.
- 79) Most importantly, serious pests and diseases are already regulated under the Act and provisions exist to broaden the scope of this to include other pests and diseases if it is deemed desirable, subsequent to the appropriate process being followed.
- 80) The level of occurrence of endemic pests and diseases is frequently region-specific and their impacts vary according to farm system and management practices. Even if there was a clear rationale for government intervention in their

⁴ Legislation Advisory and Design Committee (2021) *Legislation Guidelines*

control, which in most cases there is not, legislating at the national level would provide little benefit in many circumstances.

- 81) The example cited of legislating for the washing of farm machinery does not refer to the fact this could be made a commercial requirement by any farm contracting the equipment, provided it was willing to pay the costs.

Proposal 42 – Add provisions in the Act to enable greater use of the risk-based regulatory model where businesses are required to develop their own risk management plan

- 82) MIA supports the application of risk-based models where the level of risk posed by a business practice justifies the compliance burden imposed, for example livestock feed mills using ruminant protein.

- 83) The scope should not apply to the general operation of livestock production and processing businesses as it would represent an unnecessary and unjustified administrative burden.

- 84) Risk Management Plans, required to be implemented by livestock product manufacturing businesses are justified based on the abundant, widespread and very serious potential risks to human health that can be associated with **food safety** incidents in the food processing industry. The biosecurity risk posed by pests and diseases present in New Zealand (except those that are already subject to regulatory control, e.g. bovine TB) in no way warrant this level of regulatory intervention.

- 85) The discussion document states that this proposal would:

enable businesses and industries to determine the risk management plan that best works for them. This is because businesses and industries are best placed to identify and manage biosecurity risks stemming from their operations

However, what this statement fails to acknowledge is that the proposal actually involves changing the Act to enable the imposition of risk management plans regardless of the needs of the individual business. There is currently no barrier to these plans being implemented by any business that wishes to do so.

- 86) Proposals 40, 41 and 42 are not appropriate for regulating general on-farm biosecurity. Recent years have seen this explored, partly under the guise of ‘mandatory farm plans’, with the outcome being the conclusion that the heterogeneity and management of these systems is refractory to a regulatory approach.

Proposal 43 – Amend Section 100ZA to add a power for the Minister to “un-recognise” an industry body when a sector withdraws from the GIA

- 87) MIA supports this proposal as a common-sense administrative improvement.

LONG-TERM MANAGEMENT

Proposal 44 – Simplify the process to create national or regional pest and pathway management plans

88) MIA is supportive in principle of steps toward simplifying the process of developing and implementing National and Regional Pest Management Plans.

89) However, MIA cannot support the removal of characterisation of the costs and benefits of these plans and, in particular, components of the status quo (Section 62) that seek to protect against the cost or regulatory impost of Plans being inappropriately allocated:

(e) – that for each organism, the benefits of the plan outweigh the costs, after taking account of the likely consequences of inaction or other courses of action

(f)(i) – that for each organism, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan would accrue, as a group, benefits outweighing the costs

(f)(ii) - that for each organism, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan

90) MIA recommends that MPI works with industry GIA Signatories to design arrangements suitable for 'GIA-led disease control programmes'.

Proposal 46 – Enable (but not require) the ability to have consolidated levies for national pest and pathway management plans

91) MIA supports Proposal 46 as it aligns with Proposal 36 to extend the scope of GIA to include pest management activities.

Proposal 54 – Amend section 55 of the Biosecurity Act and its associated regulations (Responsible Minister may assign responsibility for decisions on a harmful organism or pathway)

92) MIA is concerned that option 54A would give the Minister significant powers to require action from other parties but without the checks and balances that currently exist in, for example, the process for developing a National Pest management Plan.

Proposal 60 – Improve the management of notifiable organisms

93) MIA supports the proposal to streamline the process for declaring an organism as Notifiable.

SURVEILLANCE AND INTERFACES WITH LEGISLATION

- 94) MIA recommends that MPI satisfies itself that interfaces with the Animal Welfare Act (1999), particularly regarding actions that may be desirable during biosecurity incursion responses, and the Animal Products Act (1999) have been fully considered prior to progressing final proposals to amend the Biosecurity Act.

Proposal 68 - Change the purpose of Part 4 by enabling monitoring for pests, notifiable organisms, unwanted organisms, and other organisms that may cause infections, diseases, or unwanted harm

- 95) MIA supports this proposal, enabling international reporting to the World Organisation for Animal Health.

5. Industry proposals for biosecurity legislation changes

- 96) In addition to the proposals presented, MIA wishes to raise other opportunities for improving biosecurity legislative settings for the Ministry's consideration.

Strengthen controls on feeding food waste to pigs

- 97) It is well understood that exposure of pigs to illegally imported meat containing exotic diseases, via feeding them improperly cooked food waste containing meat (or having had contact with meat), may be the most likely pathway for the release of FMD in New Zealand.
- 98) The current regulations, requiring the adequate cooking of food waste are understood to not be enforceable. Among the major food exporting nations recognised by WOA as FMD-free (without vaccination), New Zealand is uniquely under-protected from this risk and, therefore, MIA recommends that MPI either:
- a) permits the practice only where feed is prepared under an auditable Risk Management Plan⁵ AND cost-recovered auditing of compliance is required, or
 - b) prohibits the practice of feeding food waste to pigs outright⁶

Mandatory livestock premises database for biosecurity readiness and response

- 99) MIA notes that one of the issues preventing enforcement of waste feeding regulations is the fact that MPI has no access to complete and accurate information about locations where pigs are kept.
- 100) Further, it is recognised that in an outbreak of an exotic disease of livestock, perhaps the most important information required to manage the response is knowledge about where susceptible species are kept. Without this information being readily accessible, officials must perform foot patrols of land contiguous to infected and suspect premises searching for animals. This is clearly unsatisfactory.

⁵ As occurs in Japan, the USA and Korea

⁶ As occurs in the EU, UK, Canada and Australia

- 101) In late 2011, MIA together with Beef + Lamb New Zealand, DairyNZ, Deer Industry New Zealand, NZPork, New Zealand Equine Health Association and the Egg Producers Federation wrote to MPI seeking the Ministry's support for making producer registration with the FarmsOnline database mandatory for biosecurity purposes, as part of the 2012 review of the Act. This request was declined.
- 102) Since then, at least three reviews^{7,8,9} of New Zealand's preparedness for exotic diseases, and FMD in particular, have reinforced that **biosecurity responders not having access to this information is a worrying gap that must be addressed as a priority**.
- 103) MIA urges MPI to use the Act review process to finally address this issue.

6. Summary and Recommendations

- I. MIA recommends that MPI considers defining the term 'public benefit' in the Act.
- II. MIA does not support legislating the cost share framework for GIA. MIA believes that adopting an approach similar to the Australian model, outlined in the EADRA, is desirable.
- III. MIA supports the cost recovery from non-signatory beneficiaries (NSBs) in principle but is opposed to levying them for the creation of an up-front fund.
- IV. MIA supports making limited changes to Biosecurity Act compensation but cautions against restricting entitlements too far.
- V. MIA recommends that MPI considers moving changes to settings that are only likely to ever be required for response to FMD to Section 145 of the Act dealing with declared Biosecurity Emergencies.
- VI. MIA welcomes the proposal to allow for multiple GIA Deeds but does not support broadening the scope of GIA to include any participant that is unlikely to contribute financial resources as a beneficiary.
- VII. MIA recommends that MPI works with industry GIA Signatories to design arrangements suitable for 'GIA-led disease control programmes'.

⁷ Combined Government and Industries FMD Preparedness Working Group (FMG) (2011). *Assessing New Zealand's preparedness for incursions of foot and mouth disease and recommendations for improvement*

⁸ Shadbolt, Saunders, Paskin and Cleland (2021). *The Mycoplasma bovis Programme: An independent review 2021*

⁹ Professor Nicola Shadbolt, John Martin (2022). *Foot-and-Mouth Disease Preparedness: An independent review*. Report for the MPI Director General <https://www.mpi.govt.nz/dmsdocument/58327-Independent-Review-Report-Foot-and-mouth-disease-preparedness>

- VIII. MIA supports Proposal 37 – Create one or more biosecurity focussed cross-industry organisations – as a strategic opportunity to make enduring improvements in readiness, traceability, disease management and response capability.
- IX. MIA recommends that MPI engages with livestock industry Signatories via the Livestock Sector Biosecurity Council (LSBC) to collaboratively develop a white paper to progress Proposal 37.
- X. MIA opposes adding a 'general biosecurity duty' to the Biosecurity Act.
- XI. MIA recommends that MPI satisfies itself that interfaces with the Animal Welfare Act (1999) and the Animal Products Act (1999) have been fully considered prior to progressing final proposals to amend the Biosecurity Act.
- XII. MIA recommends that MPI strengthens regulation of feeding food waste to pigs.
- XIII. MIA strongly recommends that MPI develops proposals to require producers to register the location of premises that keep livestock with a national biosecurity farm database.

MIA Contact

Chris Houston
Principal Policy Analyst
Meat Industry Association of New Zealand (Inc)

chris.houston@mia.co.nz

13 December 2024

Appendix 1

MIA members and affiliate members as at 12 April 2024

Members	Affiliate members
Advance Marketing Ltd	Abattoirs Association of New Zealand
AFFCO New Zealand Ltd	AgResearch Ltd
Alliance Group Ltd	Alfa Laval New Zealand Ltd
Ample Group Ltd	Americold New Zealand Ltd
ANZCO Foods Ltd	AON New Zealand Ltd
Ashburton Meat Processors Ltd	AsureQuality Limited
Auckland Meat Processors Ltd	Auspac Ingredients Pty Ltd
Bakels Edible Oils (NZ) Ltd	Beca Ltd
Ballande New Zealand Ltd	Centreport Ltd
Black Origin Meat Processors	CMA-CGM Group Agencies (NZ) Ltd
Blue Sky Meats (NZ) Ltd	Cooltranz 2014 Ltd
BX Foods Ltd	G-Tech New Zealand Ltd
Columbia Exports Ltd	Haarslev Industries Ltd
Crusader Meats New Zealand Ltd	Hamburg-Sud New Zealand Ltd
Davmet (New Zealand) Ltd	Hapag-Lloyd
Evolution Foods Limited	Intralox Ltd
Farmlands Mathias International Ltd	Kemin Industries NZ Ltd
Fern Ridge Ltd	Liqueo (HB) Ltd
Firstlight Foods Ltd	Maersk NZ Ltd
Garra International Limited	MJI Universal Pte Ltd
Global Life Sciences Solutions NZ Ltd t/a Cytiva	Moda Systems New Zealand Ltd
GrainCorp Commodity Management NZ Ltd	Oceanic Navigation Ltd
Greenlea Premier Meats Ltd	Port of Napier Ltd
Harrier Exports Ltd	Port Otago Ltd
Integrated Foods Limited	PrimeXConnect
Kintyre Meats Ltd	Pyramid Trucking Ltd
Lowe Corporation	Rendertech Ltd
Ovation New Zealand Ltd	Rockwell Automation (NZ) Ltd
Peak Commodities Ltd	SCL Products Ltd
Prime Range Meats Ltd	Scott Technology Ltd
Progressive Meats Ltd	Sealed Air (New Zealand)
PVL Proteins Ltd	SHICO Limited
SBT Group Ltd	Suncorp New Zealand Ltd
Silver Fern Farms Ltd	Visy Industries Australia Pty Ltd
Standard Commodities NZ Ltd	Wiley New Zealand Limited
Taylor Preston Ltd	
Te Kuiti Meat Processors Ltd	
UBP Ltd	
Value Proteins Ltd	
Waimarie Meats Partnership	
Wallace Group	

Members	Affiliate members
Wilbur Ellis (NZ) Ltd	
Wilmar Gavilon Pty Ltd	