



BIOSECURITY ACT 2015

Discussion Paper: Abandoned and neglected horticultural enterprises

December 2015



Photo: © NSW Department of Primary Industries

Comments on this Paper close on 12 February 2016

Email your comments to: submissions.biosecuritylegislation@dpi.nsw.gov.au

Post your comments to: Biosecurity Act 2015
NSW Department of Primary Industries
Locked Bag 21
Orange NSW 2800

Published December 2015

For more information

See: www.dpi.nsw.gov.au/biosecurityact

Email: submissions.biosecuritylegislation@dpi.nsw.gov.au

Ref: INT15/125375

© State of New South Wales through the Department of Industry, Skills and Regional Development, 2015. You may copy, distribute and otherwise freely deal with this publication for any purpose, provided that you attribute the NSW Department of Primary Industries as the owner.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (December 2015). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

Summary

The *Biosecurity Act 2015* (Biosecurity Act) will repeal the *Plant Diseases Act 1924* which currently provides the regulatory basis and powers for responding to biosecurity risks associated with abandoned and neglected horticultural enterprises.

Having considered the existing arrangements, it is proposed to manage the biosecurity risks associated with abandoned and neglected horticultural enterprises using the **General Biosecurity Duty** (GBD). The GBD requires owners and occupiers to manage biosecurity risks associated with their horticultural enterprise. Where appropriate management of these risks does not occur, Authorised Officers will have the power to require the person responsible to take action to discharge their duty. If the person fails to comply with the direction, a third party can be engaged to undertake the work and the costs recovered from the owner or occupier.

Background

What is the problem?

Those who abandon or neglect their horticultural enterprises can create breeding grounds for pests and diseases, which may spread to other growers and impact a wide range of horticultural industries. If there are serious pests or diseases present, other local business owners who are doing the right thing may need to cease trading while the biosecurity risk is contained and eradicated. Dealing with the biosecurity risk could increase management and production costs for business owners and others involved in the supply chain. Individual producers or entire industries may lose market access or reputation as a result of the biosecurity incident.

Why is it important?

New South Wales horticulture industries produce fruits, nuts, vegetables, ornamental plants and wine with a gross value of approximately \$1.5 billion each year¹. Industries such as citrus, grapes, melons, blueberries, apples and glasshouse vegetables are significant contributors to the regional economies of NSW. Fresh and processed fruit and vegetables are also important products for export markets with NSW horticultural exports, excluding wine, valued at over \$100 million a year. Inclusive of wine products NSW export value is over \$570 million².

What is the outcome we are seeking?

The desired outcome is to ensure market access by preventing, controlling and managing negative impacts of pests and diseases on horticultural enterprises in NSW.

Current management arrangements

There are a number of provisions in the *Plant Diseases Act 1924* (PD Act) that allow DPI to respond to biosecurity risks associated with abandoned and neglected horticultural enterprises. These include:

- Inspector powers to require people to prevent the spread of pests and diseases, including the destruction of a place or thing on their land or premises if the inspector considers it reasonably necessary (Section 14).
- Inspector powers to destroy or otherwise dispose of plants, fruit and coverings that are infected (Section 17).

¹ Australian Bureau of Statistics, Catalogue number 75030: Value of Agricultural Commodities Produced, Australia 2013-14

² Australian Bureau of Statistics, NSW agricultural exports 2013-14

- Ministerial power to require the destruction of all plants within an orchard, vineyard or nursery that are likely to harbour pests and diseases on advice from an inspector (Section 21).

The current DPI abandoned or neglected orchards, vineyards and nurseries policy promotes a risk-based approach to enforcement of these provisions. It provides a framework for inspectors to identify the level of risk present, and sets out a procedure based on that risk, including communicating with the owner/occupier.

Proposed management under the Biosecurity Act 2015

The **General Biosecurity Duty (GBD)** is a key part of the Biosecurity Act which applies to dealings with pests and diseases that affect horticultural enterprises. The GBD includes responsibilities for dealing with biosecurity matter and knowing about the risks caused by that biosecurity matter.

The GBD requires any person dealing with biosecurity matter (such as trees in an orchard) or a carrier of biosecurity matter (such as farm machinery) and who knows or ought to know of the biosecurity risks associated with that biosecurity matter to take measures to prevent, minimise or eliminate the risk as far as is reasonably practicable.

For example, the owner of an orchard ought to know of the risks associated with plant pests and diseases. If that person identifies a disease in the orchard he or she should take action to prevent the disease from spreading from their property to other properties. This may include treating or removing the trees and decontaminating equipment.

How you can discharge your GBD may be outlined in Industry Standards, Codes of Practice, guidelines or through other advisory or education material. For example, the *Orchard Biosecurity Manual for the Summerfruit Industry* and the *Biosecurity Manual for the Nursery Production Industry*, provide information about biosecurity best practice, exotic plant pests and diseases to watch out for, record keeping and reporting. These can be used to support GBD responsibilities.

The Biosecurity Act includes various offences for failing to discharge the GBD. Where appropriate management does not occur, **Authorised Officers** may issue a **Biosecurity Direction** to require the treatment, disposal, and destruction of infected/infested plants, fruit and equipment to prevent the spread of any pest or disease. If the Biosecurity Direction is not complied with, an Authorised officer or third party can undertake these actions and the costs recovered from the owner or occupier.

Depending on the nature and severity of the biosecurity risk concerned, a **Control Order** or **Emergency Order** could also be issued to respond to an incursion of a particular pest or disease. These Orders will provide instruction on any actions that need to be taken to respond to the incursion, such as destruction, treatment or movement restrictions.

DPI will continue to promote a risk-based approach to biosecurity risks from abandoned or neglected horticultural enterprises. This risk-based approach will enable Authorised Officers to identify the level of risk present, and a procedure to respond when appropriate.

What do you think?

We value your comments on how we can improve our biosecurity system and look forward to receiving your input into this important process.

Please complete the following survey on 'Abandoned and neglected horticultural enterprises' at: <https://www.surveymonkey.com/r/abandonedhorticulturalenterprises>.

Alternatively, submit your feedback **by Friday, 12 February 2016** via [email](#) or post to:

Biosecurity Act 2015

NSW Department of Primary Industries

Locked Bag 21

Orange NSW 2800

For more information about the *Biosecurity Act 2015* and regulatory framework, please visit www.dpi.nsw.gov.au/biosecurityact.

Appendix

