



GOVERNMENT OF
WESTERN AUSTRALIA



Review of the **Biosecurity and Agriculture Management Act**

Stage 3 Discussion Paper
Potential reform opportunities





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Acronyms

APC	Agricultural Produce Commission
BAM Act	<i>Biosecurity and Agriculture Management Act 2007</i>
Cth	Commonwealth
DG	Director General
DPA	Declared Pest Account
DPIRD	Department of Primary Industries and Regional
DPR	Development declared pest rate
EADRA	Emergency Animal Disease Response Agreement
EPPRD	Emergency Plant Pest Response Deed
GBD	general biosecurity duty
GBO	general biosecurity obligation
IFS	industry funding scheme
IGAB	Intergovernmental Agreement on Biosecurity
LEMA	local emergency management arrangements
NEBRA	National Environmental Biosecurity Response Agreement
NSW	New South Wales
Qld	Queensland
QA	quality assurance
RBG	recognised biosecurity group
RIFA	red imported fire ants
SA	South Australia
SAT	State Administrative Tribunal
SEMC	State Emergency Management Committee
SPS Agreement	International Sanitary and Phytosanitary Agreement
WA	Western Australia



Introduction – about this discussion paper

This discussion paper draws on the information gathered from consultations and stakeholder engagement during Stages 1 and 2 of the review of the *Biosecurity and Agriculture Management Act 2007* (BAM Act), as well as additional research, to present legislative and non-legislative reform opportunities.

The paper provides an overview of the BAM Act Review Panel's (panel) approach and is then divided into nine sections, each addressing an area for reform identified by the panel.

The nine reform areas describe the challenges stakeholders raised through the review process, outline the desired outcomes for each area, and present ways (specific opportunities) in which these outcomes might be achieved. Some of these opportunities are legislative, some are not.

This discussion paper has been prepared to assist people who might like to comment on the reform opportunities that the panel is investigating. Your views will help the panel finalise its recommendations to government.

The discussion paper does not address technical amendments¹ required to the BAM Act that have been raised with the panel through the consultation and engagement processes to date.

Comments invited

Interested parties are invited to share their views on the nine reform areas, identified key outcomes and specific opportunities for reform. A list of reform areas, key outcomes and opportunities is included at the end of this document.

Interested parties are invited to comment by **5pm Friday 30 June 2023**.

This is the last chance to contribute to the BAM Act review before the panel reports to the Minister for Agriculture and Food on its findings.

This discussion paper and information on how to comment on the key outcomes and opportunities for reform is available from the review's [Your Say webpage](#).²

The information received will help the panel formulate its final recommendations to the Western Australian (WA) Government. The WA Government will then determine if it will act on those recommendations and, if it chooses to proceed, how further work and consultation will be done to progress the recommendations.

What the BAM Act review is looking at

This first statutory review of the BAM Act is being undertaken by an independent panel appointed by the Minister for Agriculture and Food.

The panel is considering the extent to which the BAM Act provides a fit-for-purpose, efficient and effective legal framework to underpin a world-class biosecurity system, and related agriculture management, for WA.

¹ For example, changes to wording used in the Act to clarify or improve the BAM Act's intent.

² <https://yoursay.dpird.wa.gov.au/bam-act-review-2022>



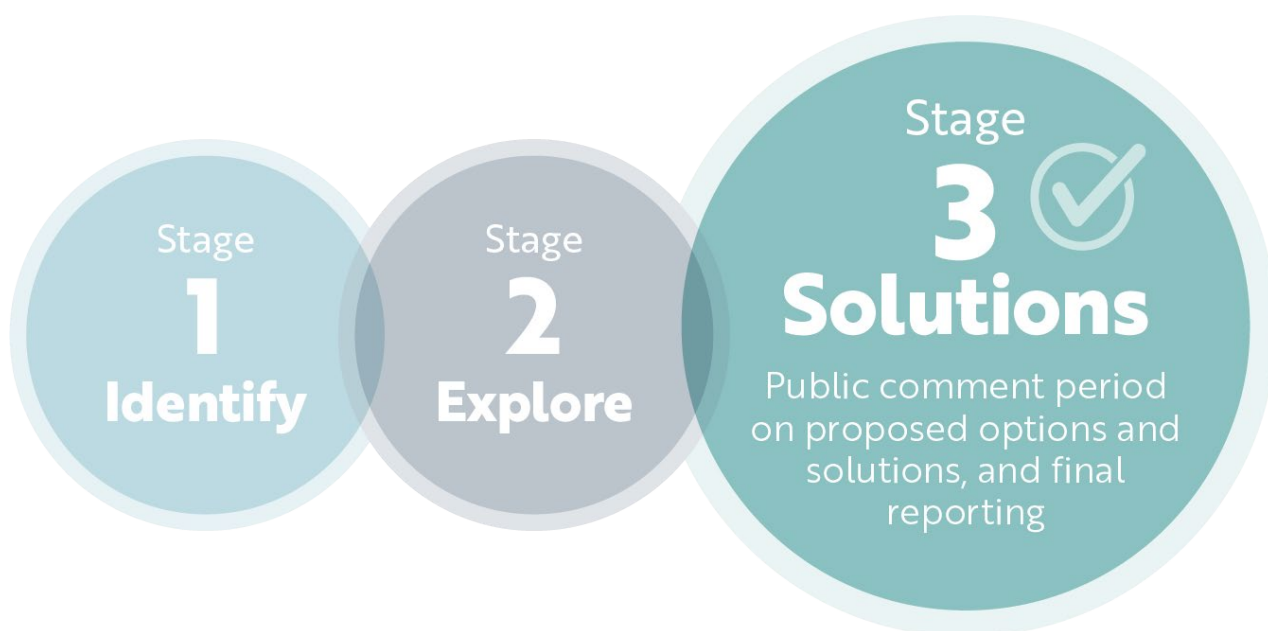
An important consideration is the interaction of WA's biosecurity and agriculture management arrangements with the national and international biosecurity systems, as well as other agriculture and veterinary chemical and food safety systems.

The panel is carefully considering the role WA plays in these broader systems to ensure it is positioned to be both an effective contributor and beneficiary.

The review process consists of the following three phases:

- **Stage 1 Identify themes** – open submissions and survey to identify major themes and issues for further investigation
- **Stage 2 Explore themes** – targeted stakeholder engagement to explore identified themes and issues, and inform the development of options and solutions
- **Stage 3 Solutions and reporting** – a third public comment period on opportunities for reform, and final reporting.

Stages 1 and 2 have been completed and Stage 3 is underway.



Given the breadth of the BAM Act and related regulations, the panel is focused on what stakeholders identified as most important, the directions taken in more contemporary biosecurity legislation, and what would most benefit from improvement. Much of this relates to the biosecurity aspects of the legislation.

For more information on the review process, go to the [BAM Act Review webpage](https://www.agric.wa.gov.au/biosecurity-quarantine/2022-statutory-review-biosecurity-and-agriculture-management-act-2007).³

³ <https://www.agric.wa.gov.au/biosecurity-quarantine/2022-statutory-review-biosecurity-and-agriculture-management-act-2007>



The independent review panel's approach

The panel has identified the following five goals to guide Stage 3 of the BAM Act review process:

1. Clarify, strengthen and support a culture where everyone values biosecurity and actively seeks to participate in it
2. Clarify the legislative scope of the Act
3. Enhance risk-based approaches to achieve outcomes
4. Promote public confidence in WA's biosecurity system
5. Strengthen WA as part of the national biosecurity system.

These goals reflect what the panel would like to see achieved through legislative and non-legislative reform opportunities and changes. They were informed by the consultations, stakeholder engagement and research undertaken during Stages 1 and 2 of the review.

The panel's research included, among other things, examining the Australian biosecurity legislation enacted in the decade after the BAM Act and changes to national and other biosecurity agreements.

There is increasing pressure on WA's biosecurity system

The [National Biosecurity Strategy 2022-2032](#) identifies the following drivers of this increased pressure:

Climate change is shifting the habitat, range and distribution of pests, weeds and diseases and increasing their ability to spread within Australia and from overseas.

Increases and changes in trade and travel patterns are exposing WA to additional biosecurity risks.

Decreasing biodiversity, from climate change, changing land use and invasive species, is reducing resilience to new threats.

Changing land use, including greater numbers of people with variable biosecurity understanding living in peri-urban and regional areas, introduces new biosecurity risks.

Increasing biosecurity risks overseas, such as foot-and-mouth disease in Indonesia, increases the risk to Australia.

Illegal activities have increased, such as the importation of prohibited plants and animals.

Major global disruption, the COVID-19 pandemic has driven changes in supply chains and the movement of goods and people. War and natural disasters can also change how people and goods move around, which changes the biosecurity risk profile.



Step change needed

The BAM Act is currently doing its job reasonably well for WA's biosecurity. However, WA (and Australia) is facing increasing biosecurity risk. Given the complexities and dynamics of the operating environment, a step change is needed in how WA addresses its biosecurity.

The panel is committed to a biosecurity system for WA that can effectively respond to the growing pressures and complexities. The review of the BAM Act provides a once-in-a-decade opportunity to evolve WA's biosecurity system to help ensure it remains fit-for-purpose into the future. The panel intends to position the BAM Act to drive the step change that is required.

1 – Clarify, strengthen and support a culture where everyone values biosecurity and actively seeks to participate in it

Everyone needs to be responsible (and accountable) for biosecurity at home, work or play, with 'shared responsibility' being a core principle that underpins biosecurity across Australia. This principle recognises that everyone benefits from and has a role to play in protecting our unique environment, valuable industries and our way of life from the harmful impacts of pests⁵ and diseases.

By working together, communities, industries, businesses, the public and governments can prevent new pests and diseases from coming to WA, quickly detect and report them if they do, and reduce their impacts once they arrive.

Although the Stage 1 and 2 consultation and engagement processes highlighted strong support for the principle of shared responsibility, it also revealed confusion around its meaning, issues relating to equity (particularly in relation to cost sharing), and uncertainty about roles and responsibilities.

This discussion paper includes several opportunities for reform that aim to clarify, strengthen and support biosecurity as everyone's responsibility for everyone's benefit.

2 – Clarify the legislative scope of the Act

The BAM Act is WA's primary biosecurity legislation. It provides the legal framework to manage biosecurity risks to WA in any situation, whether it is endangering WA's primary industries, our unique environment, or our way of life. It also deals with agriculture management, contributing to the safety and integrity of our food and fibre produce and products.

The BAM Act's biosecurity provisions relate to organisms that can cause harm and the things that can carry those organisms.

The agriculture management provisions are treated quite separately. They primarily relate to agricultural and veterinary chemicals and other contaminants of soil, water, animals and agricultural products that can negatively impact the quality or safety of those products.

This dual focus of the BAM Act has created some confusion among stakeholders regarding the scope of 'biosecurity' under the Act.

⁴ <https://www.biosecurity.gov.au/about/national-biosecurity-committee/nbs>

⁵ In this discussion paper, the term 'pest' refers to invertebrate and vertebrate animal pests as well as weeds.



It was suggested that there is a historical and structural bias toward protecting agricultural interests from biosecurity risks. This includes concerns that the BAM Act is not adequately protecting WA's natural and urban environments, biodiversity, and our way of life from the impacts of harmful pests and diseases.

Several opportunities for reform are made in this discussion paper to clarify the legislative scope and to strengthen the role of the BAM Act as WA's primary piece of biosecurity legislation.

3 – Enhance risk-based approaches to achieve outcomes

A key principle of modern legislation/regulation is risk-based approaches to regulatory assessment and decision making. These approaches focus on achieving results, rather than just prescribing specific processes or procedures. Such a method ensures that the issues that present the greatest risk of harm are identified and attention and resources can be directed to where they are most needed, with a light regulatory approach applied to issues that pose a low or very low risk.

A focus on achieving outcomes encompasses performance-based requirements rather than prescriptive requirements (unless a prescriptive approach is unavoidable), which minimises burdens on businesses and individuals.

Although risk-based approaches are inherent in the operation of the BAM Act, contemporary Australian biosecurity legislation is more explicit on the role and use of risk-based approaches to deliver outcomes. Enhancing the BAM Act's use of risk-based approaches to deliver biosecurity outcomes will improve decision making and support the transparency and accountability of decisions. This discussion paper includes reform opportunities to achieve this.

4 – Promote public confidence in WA's biosecurity system

Public confidence in the biosecurity system is essential. Without it, people may be less likely to follow biosecurity requirements or support the allocation of funding and resources to these efforts. It is also important to assure consumers and trading partners that appropriate measures are in place to protect biosecurity and the integrity of our produce and products.

As noted previously, significant changes and challenges have arisen since the BAM Act was introduced 10 years ago, and some stakeholders questioned the ability of the Act to keep pace with these changes. Stakeholders also questioned the effectiveness of the biosecurity system overall. If the legislative framework and the biosecurity system it enables were to fail, public trust and confidence is likely to erode.

The opportunities for reform presented in this discussion paper aim to future-proof the BAM Act and strengthen public confidence.

5 – Strengthen WA as part of the national biosecurity system

The interconnected nature of biosecurity and other agricultural risks means that WA's biosecurity system cannot operate in isolation. What we do in WA can positively or negatively impact the entire country, and what happens elsewhere in Australia can impact our state.



At the national level, WA is a signatory of the [Intergovernmental Agreement on Biosecurity](#) (IGAB)⁶ and various cost-sharing deeds committing it to work collaboratively across Australia to manage biosecurity risk. Additionally, Australia is a signatory to various international agreements, such as the International Sanitary and Phytosanitary Agreement (SPS Agreement), the Convention on Biological Diversity, and various trade agreements.

WA needs to comply with the requirements and standards set out in these agreements. It must also work collaboratively with other states and territories to build relationships to effectively manage risks and enable the movement of goods across Australia and overseas.

WA's interests are best served by a BAM Act that recognises and supports WA's position in Australia and internationally for years to come. This discussion paper includes reform opportunities for a contemporary and future-proofed BAM Act.

Key principles of the Intergovernmental Agreement on Biosecurity

Biosecurity is a shared responsibility between all system participants.

In practical terms, zero biosecurity risk is unattainable.

Biosecurity investment prioritises the allocation of resources to the areas of greatest return, in terms of risk mitigation and return on investment.

Biosecurity activities are undertaken according to a cost-effective, science-based and risk-managed approach.

Governments contribute to the cost of risk management measures in proportion to the public good accruing from them. Other system participants contribute in proportion to the risks created and/or benefits gained.

System participants are involved in planning and decision making according to their roles, responsibilities and contributions.

Decisions governments make in further developing and operating our national biosecurity system should be clear and, wherever possible, made publicly available.

The Australian community and our trading partners should be informed about the status, quality and performance of our national biosecurity system.

Australia's biosecurity arrangements comply with its international rights and obligations and with the principle of ecologically sustainable development.

[Intergovernmental Agreement on Biosecurity](#) (2019)

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⁶ <https://federation.gov.au/about/agreements/intergovernmental-agreement-biosecurity>

⁷ <https://federation.gov.au/about/agreements/intergovernmental-agreement-biosecurity>



Reform Area 1. Clarifying the role of the BAM Act

The objects clause of an Act of Parliament is intended to provide a clear statement of the Act's purpose to inform how its provisions are to be read.

The objects or purpose of an Act should:

- inform the public and regulated entities of the intended policy objectives, to support a better understanding of the activities that are enabled or regulated
- provide meaningful direction to government officers, such as decision makers and persons exercising statutory powers in administering the Act in their work, and
- help the judiciary interpret the Act.

The challenge: reducing confusion about the BAM Act

Consultations undertaken through the review revealed uncertainties, confusion and misconceptions about the purpose of the BAM Act among many stakeholders – despite 74% of the Stage 1 survey respondents believing they had some understanding of the BAM Act.

In many respects, this is not unexpected as the BAM Act is one part of a broader suite of biosecurity management processes that collectively make up WA's biosecurity system. The Act establishes the legal framework in which the system operates, providing a solid foundation for the system in its entirety. It can be difficult, and sometimes unnecessary, for stakeholders to recognise and understand all the different parts of this complex system.

The BAM Act was enacted to modernise and replace some 17 separate Acts in the Agriculture portfolio with one piece of legislation, supported by regulations. It was initially known as the Agriculture Management Bill because the legislation it was to replace was concerned with agriculture. The title of the Bill later became the Biosecurity and Agriculture Management Bill to reflect its purpose as the State's primary biosecurity legislation, including for areas beyond agriculture.

Given this history, it is not surprising that the panel heard stakeholders express different views about the extent to which the BAM Act should or should not preference the biosecurity of agricultural activities over the biosecurity of other primary industries, the natural environment, social amenity, or cultural heritage. This is despite the BAM Act recognising the need to work across government portfolios to deliver social, environmental and economic outcomes.

The panel also found that stakeholders were generally less interested in the agriculture management provisions of the Act, focusing instead on biosecurity.

To reduce confusion about the intent of the BAM Act, its objects need to be relevant, appropriate and give support and structure to the specific laws contained within it.

What we need to achieve

The panel has identified the following key outcomes for the Objects of the BAM Act; that the Act:

- has clear Objects, helping readers to successfully interpret and implement it



- anticipates increasing biosecurity and agriculture management risk and complexity, and
- strengthens WA's contribution to Australia's biosecurity system.

Objects of the *Biosecurity and Agriculture Management Act 2007 (WA)*

(1) The objects of this Act are to provide effective biosecurity and agriculture management for the State by providing the means to —

(a) control the entry, establishment, spread and impact of organisms that have or may have an adverse effect on —

(i) other organisms; or

(ii) human beings; or

(iii) the environment or part of the environment; or

(iv) agricultural activities, fishing or pearling activities, or related commercial activities, carried on, or intended to be carried on, in the State or part of the State; and

(b) control the use of agricultural and veterinary chemicals; and

(c) establish standards to ensure the safety and quality of agricultural products; and

(d) raise funds for biosecurity-related purposes.

(2) Nothing in this Act empowers the regulation of diseases which affect only human health.

[*Biosecurity and Agriculture Management Act 2007*](#)

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Opportunities for reform

Contemporary Australian biosecurity legislative objects are more descriptive and less prescriptive compared to those of the BAM Act. In addition, 'biosecurity', in contemporary legislation incorporates many of the agriculture management aspects that are currently treated separately in the BAM Act.

Provide a framework

The objects of contemporary biosecurity legislation centre on providing a framework for a biosecurity system that effectively manages:

- pests and diseases (other than humans, or diseases in a human) and other biosecurity matter (including agriculture management and food safety aspects) that are economically significant. This future-proofs the legislation by removing the need to list specific industries that could be affected by harmful pests and diseases
- public or human health and safety risks from pests and diseases (other than those that only affect human health) and other biosecurity matter. This is somewhat consistent with the BAM Act, except in more contemporary legislation

⁸ https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_2736_homepage.html



contaminants are included within the scope of a 'biosecurity matter' rather than as a separate agriculture management matter

- pest and disease risks to terrestrial and aquatic environments and biodiversity. This is consistent with the BAM Act objects, and
- adverse effects on public amenities, community activities and on infrastructure. Although consistent with the intent of the BAM Act objects, it is more explicit in contemporary legislation.

Objects of Tasmania's *Biosecurity Act 2019*

The objects of this Act are –

- (a) to ensure that responsibility for biosecurity is shared between government, industry and the community; and*
- (b) to protect Tasmania from –*
 - (i) pests, diseases and other biosecurity matters that are economically significant for Tasmania; and*
 - (ii) threats to terrestrial and aquatic environments arising from pests, diseases and other biosecurity matters; and*
 - (iii) risks to public health and safety arising from pests, diseases and other biosecurity matters known to have an adverse effect on human health; and*
 - (iv) pests, diseases and other biosecurity matters that may have an adverse effect on public amenities, community activities and infrastructure; and*
- (c) to provide a regulatory framework in relation to biosecurity that –*
 - (i) facilitates emergency preparedness and the effective management of biosecurity emergencies that may affect Tasmania; and*
 - (ii) takes account of regional and local differences in respect of biosecurity risks and biosecurity impacts; and*
 - (iii) supports an evidence-based approach to the assessment, prevention and management of biosecurity risks and biosecurity impacts; and*
 - (iv) does not require a biosecurity risk to be proven with full certainty before taking reasonable and practicable measures to prevent, eliminate or minimise the risk; and*
- (d) to give effect to –*
 - (i) biosecurity-related strategies and policies developed, or endorsed, by the Tasmanian Government; and*
 - (ii) intergovernmental agreements related to biosecurity to which Tasmania is a party; and*
- (e) to facilitate the trade of Tasmanian produce by ensuring that it meets national and international biosecurity requirements; and*
- (f) to promote compliance with the general biosecurity duty through emergency preparedness, effective enforcement measures, and communication and collaboration between government, industry and the community.*

[Biosecurity Act 2019](#) (Tasmania)

⁹ <https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2019-022>



Provide direction

Contemporary legislation can also provide direction on how the biosecurity system is intended to operate. For example, legislative objects may state that the Act is intended to:

- provide a framework for minimising biosecurity risk or provide for risk-based decision making – consistent with best practice biosecurity processes
- promote or ensure shared responsibility – reflecting shared responsibility as an accepted principle of biosecurity systems nation-wide, and
- give effect to intergovernmental agreements and provide the means to maintain access to domestic and international markets – recognising the role the states play in national and international biosecurity and trade processes.

Tasmania's *Biosecurity Act 2019*, which is the most recent of Australia's biosecurity legislation, also refers to emergency preparedness and managing biosecurity emergencies in its objects, drawing attention to the importance of this element of the biosecurity system.

Contemporary biosecurity legislation does not reference agriculture management in the title, even though these Acts also deal with, to varying degrees, contaminants (e.g. chemical residues) and the adulteration of agriculture products. These are managed within the scope of biosecurity by including contaminants in the definition of 'biosecurity matter'.

The importance of engaging with the Traditional Custodians of Country

Aboriginal and Torres Strait Islander people are the Traditional Custodians of Country, and their ongoing connection to the land and waters and continuing role in Caring for Country must be recognised within biosecurity systems.

There is now more visible and formal recognition of this unique role through a range of Caring for Country initiatives, Aboriginal Ranger programs and the joint management of parks and reserves in WA's conservation estate.

Aboriginal people have rights and interests over significant amounts of land and sea Country. Pests and diseases, as well as the activities undertaken to control them, can and do impact Country or the relationship Aboriginal and Torres Strait Islander people have with it.

Working in partnership with Aboriginal people and incorporating their cultural perspectives and knowledge of Country is critical to WA's biosecurity.

Queensland's *Biosecurity Act 2014* explicitly states that it is:

to be administered, as far as practicable, in consultation with, and having regard to the views and interests of, public sector entities, local governments, industry, Aborigines [sic] and Torres Strait Islanders under Aboriginal tradition and Island custom, interested groups and persons and the community generally.



Tell us what you think

Opportunity 1

Clarify and simplify the legislative framework by defining 'biosecurity' to encompass the agriculture management outcomes currently provided for in the BAM Act, where it is reasonable to do so.

This would mean chemical products, residues on land, and the adulteration of agricultural products or feed would all be captured as 'biosecurity' for the purposes of the legislation.

Opportunity 2

Amend the objects of the BAM Act to:

- increase the Act's focus on providing for an effective biosecurity system
- be more descriptive of the contexts to which biosecurity applies under the Act, to align with the more contemporary legislation
- provide for a framework for minimising biosecurity risk and risk-based decision making, including for when evidence is uncertain or lacking
- emphasise that biosecurity is everyone's responsibility for everyone's benefit
- refer to emergency preparedness and the effective management of biosecurity emergencies
- include reference to intergovernmental agreements
- provide for trade of WA's produce and products by ensuring it meets national and international biosecurity requirements.

Opportunity 3

Include a statement in the BAM Act that identifies the need to involve and engage all biosecurity system participants in its implementation, including Aboriginal peoples, the general public, communities, industries and local, state and federal government bodies.



Reform Area 2. Working together to protect WA

Biosecurity is essential for safeguarding our environment, industries and way of life, and we all benefit when we work together to support it. WA's biosecurity system can only be as strong as our collective efforts to reduce the risk and mitigate the impacts of harmful pests and diseases. [Depending on who we are and what we do our role is different](#)¹⁰. It is simply not possible for any one person, community, organisation or government body to do this alone.

Our capacity to work effectively together is becoming even more critical as WA, along with the rest of Australia, faces ever-changing and increasing biosecurity risks. It may be challenging, but it is important that we continue to work at it.

The challenge: shared understanding and action

The panel identified that there is strong stakeholder support for the concept of shared responsibility, a core principle that underpins biosecurity across Australia, with most Stage 2 survey respondents agreeing the concept is important to WA's biosecurity. However, 'shared responsibility' means different things to different people.

While it is easy to agree that collective action to manage biosecurity is important, the panel heard from many stakeholders who felt it was challenging to put it into practice and said that the BAM Act did not provide adequate guidance on how to do this.¹¹

Many stakeholders also raised concerns that people, other than themselves, were not doing enough to manage biosecurity issues. This reflects the differing goals and contributions of different parties, and the differing expectations they have in terms of who should contribute to pest and disease management and how.

Given the dynamics of the operating environment, and the diversity of people within it, we need a significant shift in how we collectively share responsibility for WA's biosecurity system. Working together to do the right thing by WA isn't always easy, but it is essential.

What we need to achieve

The panel identified the following key outcomes for shared responsibility:

- Everyone contributes to WA's biosecurity by taking reasonable and practicable steps to reduce biosecurity risks and impacts that are under their control.
- Everyone understands the importance of biosecurity and the benefits it delivers to them and to WA as a whole.

Shared responsibility is implicit in the BAM Act and includes:

- duties, such as the duty of any person who finds or suspects the presence of a declared pest to report it, and duties of land managers to control declared pests
- cost-sharing mechanisms established under the Act to address declared pests (the declared pest rate and industry funding schemes)
- provisions relating to advisory groups, which support contributions from biosecurity system participants to inform decision making.

¹⁰ <https://yoursay.dpir.wa.gov.au/68106/widgets/338374/documents/260112>

¹¹ 54% of Stage 1 survey respondents felt the BAM Act was inadequate at addressing shared responsibility; 36% felt it was adequate; and 11% were unable to say.



Queensland's general biosecurity obligation and red imported fire ants

Red imported fire ants (RIFA) are a dangerous pest that inflicts a painful bite and causes extensive damage to ecological and agricultural systems.

The ants were first detected in Queensland (Qld) in 2001 and have slowly spread across the south-east of the state, spanning an estimated 600,000 hectares.

The general biosecurity obligation (GBO), introduced in 2014 under the *Biosecurity Act 2014* (Qld), has strengthened Qld's response to this nasty pest.

The GBO means that people in Qld have a responsibility to manage biosecurity risks that are under their control and reduce biosecurity risks, as much as they can, in their everyday activities.

To help people and industry comply with their GBO in relation to RIFA, the Qld government is developing some practical guidelines and are actively engaging with people and businesses in the affected area.

The guidelines can be put in place relatively quickly because they do not need a prolonged process of approvals and consultation like other legislative tools, such as codes of practice or regulation changes.

Compliance with the GBO

The RIFA guidelines provide a basis for government officers to guide stakeholders on what reasonable steps can be taken to mitigate the risk or impacts of RIFA.

If a compliance officer determines that someone has not taken the necessary steps to mitigate the risks, such as the steps outlined in the guidelines (which are likely the most practical measures to take), then it could be determined that they were amplifying the risk and not complying with their GBO.

As an example, nurseries are required under regulation to treat their products in a certain way to ensure they are not spreading RIFA. Nurseries understand these regulations and are very good at following them.

While the pot plants comply with the regulation, the property may have a RIFA infestation. If nothing is being done to address the infestation it would likely mean that they are not fulfilling their general biosecurity obligation.

In these high-risk circumstances, government officers can use other legislative tools such as a Biosecurity Order, which directs the business to take certain measures such as stopping trade until it is determined that the risk is mitigated.

If the business does not comply with the direction, then there may be a strong and valid case for prosecution – and penalties for non-compliance with the GBO can be pursued, and they can be severe.



Opportunities for reform

Contemporary biosecurity legislation explicitly requires everyone to contribute to biosecurity as it relates to them and the activities they undertake. This is achieved through a ‘general biosecurity duty’ or, for the purposes of this paper a ‘general biosecurity obligation.’

A general biosecurity obligation means that if someone can reasonably do something to prevent or minimise biosecurity risks and impacts, and they know (or ought to know) they should do it, then they must take responsibility (and accountability) and act.

Tasmania’s approach to a person’s general biosecurity duty

Section 70 of Tasmania’s [Biosecurity Act 2019](#) outlines a ‘general biosecurity duty’. It states:

(1) A person has a duty (the general biosecurity duty) to take all reasonable and practicable measures to prevent, eliminate or minimise biosecurity risk when dealing with biosecurity matter, or a carrier, if the person knows or reasonably ought to know that the biosecurity matter, carrier or dealing poses a biosecurity risk.

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A general biosecurity obligation such as contained in Tasmania’s legislation, by its nature is not prescriptive. This means it can be applied in a way that takes into account different levels of accountability, knowledge and ability in relation to managing a biosecurity risk or impact. This is compared to the BAM Act, where people have specific duties (e.g. to report declared pests) but no *general* legal obligation to manage a biosecurity risk that they are aware of (or ought to be aware of).

A general biosecurity obligation is designed to complement, but not replace or override, more prescriptive laws and regulation that may be required in specific circumstances. The two work together to strengthen individual and collective biosecurity.

Implicit in a general biosecurity obligation is a call for positive action for people to find out more about it and what they can do to meet their obligation. This can prompt communities, industries and government to work together to make sure the information is available, driving better communication on biosecurity risks and impacts. A more informed and engaged general public will be more likely to take proactive steps to support the biosecurity of the industry, community and state, via their general biosecurity obligation.

Whether or not there is a legislated general biosecurity obligation, it is important for biosecurity system participants to understand what biosecurity is, how it benefits them, how they can contribute and the value of their participation. Communicating, engaging and empowering biosecurity system participants can build ownership, a collective sense of responsibility and collective action to help achieve biosecurity goals.

The ideal is to create a culture whereby everyone values WA’s biosecurity and actively participates to support it.

¹² <https://nre.tas.gov.au/biosecurity-tasmania/biosecurity-act-2019>



Ko Tātou This Is Us

[Ko Tātou This Is Us](https://www.thisisus.nz) is a nationwide campaign designed to help New Zealanders understand and care about biosecurity. It supports New Zealand's Direction Statement for its biosecurity – including building 'a biosecurity team of 4.7 million'.

Biosecurity keeps our incredible home, Aotearoa New Zealand, safe from pests and diseases.

Ko Tātou This Is Us asks us to take a moment to think about how biosecurity protects our way of life, the outdoor environment where we fish, farm, hunt and explore, the beautiful biodiversity of our unique ecosystem and even the food we eat.

Every New Zealander has a role to play in preventing pests and diseases from getting into New Zealand or helping to stop their spread if they do get here.

It takes all of us to protect what we've got.

Ko Tātou This Is Us.

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It is important to recognise that a general biosecurity obligation is a relatively new legislative concept that promotes and supports a culture of responsibility and accountability for biosecurity across all system participants. Administrators are still learning how to best give effect to these provisions.

While this is the case, a legislated obligation to reduce risk and minimise harm is not new – it exists in other areas such as workplace health and safety. We can expect the 'general biosecurity obligation' concept to mature with time as we refine and improve our approaches to ensure it is being used to its full potential.

If such an obligation were to be enacted, it would make other proposed improvements, described in later reform areas, more effective.

Tell us what you think

Opportunity 4

Introduce a general biosecurity obligation in the BAM Act.

The general biosecurity obligation will require everyone to take reasonable and practicable measures to prevent, eliminate or minimise biosecurity risks and impacts that are under their control.

Opportunity 5

Improve biosecurity communications and engagement to ensure everyone understands what biosecurity is, how it benefits them, how they can contribute and the value of their participation.

To be effective, careful planning and implementation of tailored communication and support strategies is needed. This should be supported by a deep understanding of the target audiences and the factors that influence their behaviours.

¹³ <https://www.thisisus.nz>



Reform Area 3. Planning and reporting – vital to a better biosecurity system

Planning and reporting are fundamental to ensuring WA has an efficient and effective biosecurity system. Planning and reporting processes in biosecurity:

- **identify and prioritise risks** to ensure that resources are allocated to the most important risks and that risk management strategies are targeted and effective
- **facilitate collaborative and coordinated action between biosecurity system participants** to ensure that activities are aligned and complementary, and that gaps or overlaps in responsibilities are identified and addressed
- **monitor and evaluate performance** to identify areas for improvement, inform decision making and guide strategy development to ensure the biosecurity system remains responsive to changing risks and priorities, and
- **demonstrate accountability and transparency** by providing regular reports on the performance of the biosecurity system to build trust and confidence in the system and its coordination.

The challenge: coordinating and allocating resources in a complex and challenging environment

Feedback from stakeholders through the BAM Act review consultations suggests that, while there are pockets of good practice associated with specific pests or diseases, or specific stakeholder groups, how we currently plan for and report on the biosecurity system has several significant weaknesses. These include:

- not enough strategic direction or coordination across community, industry, local governments, and State government agencies
- uncertainties about roles and responsibilities, lines of authority and accountability
- ineffective collaboration and partnerships
- difficulties reaching agreement on what to do about biosecurity issues where stakeholder groups have competing values and interests
- declining resources and concerns about the fairness of who pays, and
- limited evaluation, reporting and information sharing to support continuous improvement.

These observed weaknesses are being compounded by increasing pressure on WA's (and Australia's) biosecurity system. There is growing evidence that indicates biosecurity risks and outbreaks are increasing in volume and complexity, with increased trade, movement of people and climate change seen as contributing factors. Undeniably, WA is now experiencing significant and successive biosecurity incursions – something that used to be rare events.

We need to prioritise effort more clearly, work smarter and ensure our collective resources are used as effectively and efficiently as possible. This will take WA's biosecurity system into the future so that it can deal with this 'new normal'.

Public resources should be targeted toward prevention, early detection, eradication and containment activities, where benefits are broad and returns on investment are maximised for the state. This means focussing on high-risk pests and diseases that have not yet arrived within our borders, or that have arrived but are still able to be eradicated or contained with quick and coordinated action.



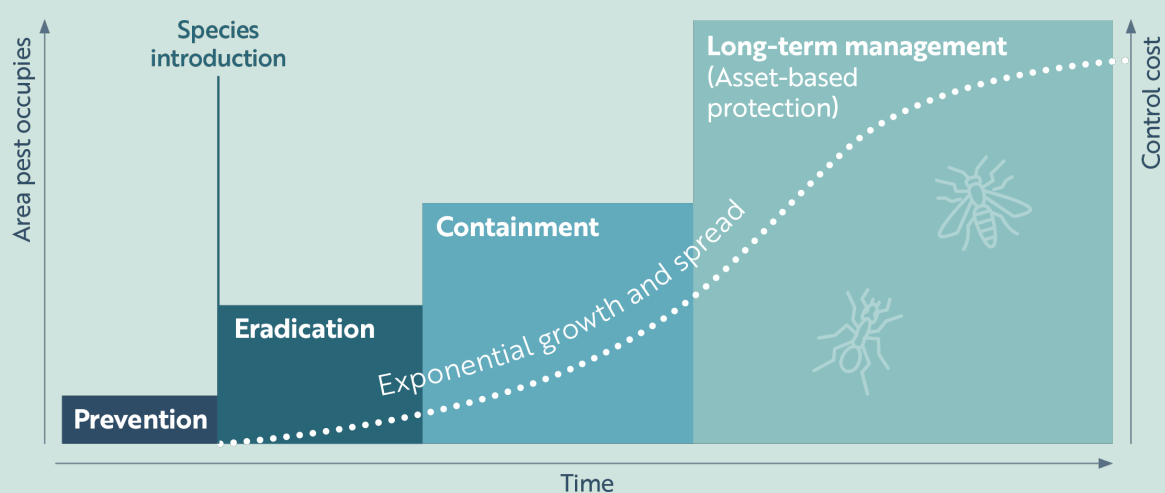
All land managers, including government, have an ongoing responsibility to manage the impact of pests that are here to stay on both private and public assets. In relation to managing these widespread and established pests, public resources are used to support coordinated collective efforts for high-impact pests. Public investment should be targeted to protecting the highest value community assets and the public good. To improve decision making, it is important to know the impact of these pests on identified economic, social, environmental and cultural assets.

A key challenge for WA's biosecurity system is ensuring it has planning and reporting processes in place that support difficult decisions on where resources are best spent and why.

Generalised invasion curve

The generalised invasion curve describes, in four phases, how pests and diseases can invade an area and become established, and how the management objectives change across these phases.

- 1. Prevention:** The best return on investment is from preventing new pests and diseases from arriving, this includes monitoring entry pathways, testing imports and border controls.
- 2. Eradication:** The eradication of a pest or disease can have a good return on investment when it is detected early and responded to rapidly. Surveillance and early detection are critical.
- 3. Containment:** Some pests and diseases can be effectively contained to a specific area by removing any that are found outside that area. Although the returns on investment are lower, it can still be worthwhile.
- 4. Long-term management:** Once pests and diseases become widespread and established the focus changes to protecting important assets from their impact. The returns on investment are generally lowest at this end of the invasion curve. However, returns can be significant when investing in protecting high-value state or national assets, such as a population of endangered native species. It's best to prevent pests from becoming established.



The generalised invasion curve is widely used to show the invasion process. This depiction is based on that used by the Invasive Species Council (invasives.org.au)



What we need to achieve

The panel has identified the following key outcomes for planning and reporting on WA's biosecurity system. These align with WA's commitment to the IGAB:

- Biosecurity investment prioritises the allocation of resources to the areas of greatest return, in terms of risk mitigation and return on investment.
- Biosecurity activities are undertaken according to a cost-effective, science-based and risk-managed approach.
- State and local governments contribute to the cost of risk management measures in proportion to the public good accruing from those measures, and their role in the system.
- All other biosecurity system participants contribute in proportion to the risks created and/or benefits gained.
- Biosecurity system participants are involved in planning and decision making according to their roles, responsibilities and contributions.
- Decisions that are made to further develop and operate WA's biosecurity system should be clear and, wherever possible, made publicly available.

Opportunities for reform

Provisions in the BAM Act for whole-of-system planning and reporting

The BAM Act establishes decision making, administrative and reporting processes that contribute to the planning, reporting and operation of WA's biosecurity system. However, it is silent on who is responsible for planning and reporting of WA's biosecurity system as a whole.

The Minister for Agriculture and Food is responsible for administering the BAM Act, and the Department of Primary Industries and Regional Development (DPIRD) is the agency principally assisting the Minister to achieve this. This is consistent with the responsibilities for biosecurity in WA under the IGAB.

While the Minister for Agriculture and Food and DPIRD take a system-wide lead, many other ministerial portfolios and State government departments have a key role to play in the system. These include, but are not limited to, the Minister for the Environment, Minister for Fisheries, Minister for Forestry, Minister for Lands and the Minister for Health; as well as the Department of Biodiversity, Conservation and Attractions, Department of Planning, Lands and Heritage, and the Department of Health.

Local governments also have an important role to play in biosecurity through provisions established in the BAM Act and other Acts.¹⁴

Other provisions in the BAM Act that support whole-of-system planning and reporting include the various provisions requiring specific persons or groups to be consulted about the use of statutory biosecurity tools.

¹⁴ *Local Government Act 1995, Emergency Management Act 2005*



The BAM Act also requires that a Biosecurity Council be established to advise the Minister and the Director General of DPIRD on any matter related to biosecurity. Membership of the council includes individuals with a general or specific interest and expertise in biosecurity management in WA, and members of community and producer organisations.

The Biosecurity Council's role is purely advisory, and it does not have any decision-making responsibility or accountability for any aspect of WA's biosecurity system. It is required to report annually, but not on the system as a whole. Nevertheless, in practice, the Biosecurity Council has prepared a range of publicly available biosecurity reports that are relevant to understanding the performance of WA's biosecurity system.

How WA plans for emergency management

The State Emergency Management Committee (SEMC) is the peak emergency management body in WA.

The SEMC, established under the [Emergency Management Act 2005](#), provides strategic advice to the Minister for Emergency Services.

Its primary responsibilities are:

- advising the Minister on emergency management and WA's preparedness to combat emergencies
- guiding and supporting public authorities, industry, business and the community to plan and prepare for efficient emergency management
- providing a forum for community coordination to minimise the effects of emergencies
- developing and coordinating risk management strategies to assess community vulnerability to emergencies, and
- providing a forum to develop information systems to improve communications.

Members of the SEMC are appointed by the Minister and include independent members and representatives of organisations essential to WA's emergency management arrangements.

The SEMC must prepare an annual report on its activities.

Under this Act, local government must also ensure that Local Emergency Management Arrangements (LEMA) are in place. LEMA are developed to provide a community-focused, coordinated approach to managing potential emergencies in a local government area.

¹⁵ https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_294_homepage.html



Other biosecurity planning and reporting activities

The measures established in the BAM Act are complemented by a mix of legislated and non-legislated planning and reporting processes. [WA's Biosecurity Strategy 2016-25](#)¹⁶ sets the overall direction for managing ongoing and emerging biosecurity issues in WA, across all biosecurity system participants.

WA's participation in national biosecurity response deeds and agreements (alongside the Commonwealth, all states and territories, and industry signatories) ensures WA has a structured approach to responding to pests and disease incursions of national significance. WA also plans for the prevention of, response to and recovery from incursions through the [State Hazard Plan: Animal and Plant Biosecurity](#).¹⁷ This plan is one of many hazard plans enabled under the [Emergency Management Act 2005](#).¹⁸

In addition, other strategies, action plans and programs have been developed by community, industry, local governments and state agencies for specific biosecurity risks and impacts, or classes of risk and impact. The ongoing control of established pests, to minimise their impacts, also features in natural resource management and Landcare planning documents. These biosecurity plans are typically developed with biosecurity system participants, but the transparency of these planning processes and how they contribute to the system as a whole is unclear.

How other states approach biosecurity planning and reporting

Contemporary biosecurity legislation does not require *whole-of-state* biosecurity system planning and reporting. However, as in WA, these activities are undertaken outside of a state's primary biosecurity legislation.

While this is the case, Qld, New South Wales (NSW) and South Australia (SA) all have in place legal requirements for specific government entities to develop plans to manage pests on an ongoing basis.

In Qld, under its *Biosecurity Act 2014*, local governments are required to develop biosecurity plans that bring together all sectors of the local community to manage invasive plants and animals. These plans are intended to target the highest priority pest management activities, and those most likely to succeed.

NSW and SA have established government entities for the sustainable management of natural resources at regional (NSW Local Land Services) and landscape (SA's Landscape Boards) scales. The ongoing control of pest species is an important element of natural resource management for economic, social and environmental outcomes.

¹⁶ <https://www.agric.wa.gov.au/biosecurity/western-australian-biosecurity-strategy>

¹⁷ <https://www.wa.gov.au/government/publications/state-hazard-plan-animal-and-plant-biosecurity>

¹⁸ https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_294_homepage.html



Tell us what you think

Opportunity 6

Establish a formal body to provide strategic advice and leadership for WA's biosecurity system.

The body would operate with the support of the Department of Primary Industries and Regional Development.

It would be tasked with the following, to support WA's biosecurity system:

- provide strategic coordination for community, industry, local governments, and State government agencies to work together to manage biosecurity risks and impacts
- ensure coordinated biosecurity activities are undertaken according to a cost-effective, science-based and risk-managed approach, and
- ensure State government resources for biosecurity are prioritised to the areas of greatest return and public good.

The body would be required to:

- partner with other entities across community, industries and the regions, and
- involve other biosecurity system participants, according to their roles, responsibilities and contributions (in line with the IGAB principles).

The body would also be required to report on the implementation and effectiveness of the plans it establishes, and to publish its plans and reports.

Consistent with biosecurity principles established in the IGAB, it would be appropriate to undertake a co-design process to further develop the form and functions of the body. This would include identifying:

- industry, community and government entities that could be formally represented on the body and how – aligning with the 'shared responsibility' principle
- other entities that could be involved, including the scale at which they should be represented and involved in planning activities for different aspects of the system, from local, regional to state level
- the specific expertise required for the body to act as a strategic leader of WA's biosecurity system and how that expertise is to be provided
- the role of the body in recommending or making decisions under the BAM Act
- the role of the body in identifying priorities and resource allocation, particularly funding to industry, community and local governments, and
- the role and function of the Biosecurity Council under this new structure, if any.



Reform Area 4. Prioritising pests and diseases

Prioritisation in biosecurity involves identifying the areas where our resources, legislative controls and collective efforts can be most effective, necessary and successful.

It helps direct focus to pests, diseases and pathways where prevention and control measures offer the greatest return on investment and risk mitigation.

By prioritising these areas, we can ensure that our biosecurity efforts are directed towards the most critical areas and deliver the most beneficial outcomes.

The challenge: establishing a practical legislative framework

The declaration of organisms under the BAM Act aims to identify specific pests and diseases that require a regulated approach to minimise and control the risks and impacts, and those that don't. It is central to the workings of the BAM Act's biosecurity provisions and, therefore, fundamental to the operation of WA's biosecurity system.

The BAM Act review has identified several issues with the current approach to the declaration of organisms. Issues include:

- the administrative burden, red tape and delays created by the need to assess and declare at an organism level, and the impracticality of doing this for, potentially, every organism
- communication challenges arising from confusing terminology and the volume of regulated pests and diseases
- expectations to enforce compliance with duties for all declared pests and diseases regardless of the different levels of risk and harm they pose, and
- the process used to determine an organism's declaration status.

For WA's biosecurity system to function efficiently and effectively, it is essential that the legislative framework facilitates a robust and practical risk identification and assessment process.

What we need to achieve

The panel has identified the following key outcomes for the prioritisation of pests and diseases:

- Appropriate legislative controls, rigour and resources are applied to reduce and control the risk of and harm caused by pests and diseases.
- Biosecurity system participants, informed by the outcomes of WA's biosecurity prioritisation process, can more readily understand their biosecurity obligation and act on it.

Opportunities for reform

The BAM Act's focus is on the control of certain organisms. Organisms are assessed by DPIRD to determine the risk they present to WA's industries, environment and social amenity. The Minister is empowered to make a declaration that the organism is either:

- a permitted organism – because it has been assessed as not posing a biosecurity risk in its own right, and is not likely to have the adverse effects of 'prohibited organisms' or 'declared pests' (see below)



- a prohibited organism – because there are reasonable grounds for believing the organism has (or may have) adverse impacts if it were present in WA (or part of WA), or
- a declared pest – because there are reasonable grounds for believing the organism has (or may have) adverse impacts in an area.

An organism's declared status determines the legal obligations and responsibilities that apply to it. An organism that is not declared under the BAM Act is known as an unlisted organism and, because the risk is unknown (as the risk has not been assessed), its import is treated as seriously as a prohibited organism.

How the declaration process works in WA

1. Identify an organism that is unlisted or potentially needs a change in its declared status. This may be through an application to DPIRD.
2. Gather and collate the data required to undertake a risk assessment.
3. Conduct a risk assessment, consultation and a review to the applicable standard.
4. Progress a recommendation to the Minister.
5. The Minister decides whether to act on that recommendation and make a declaration, seeking advice as necessary to help make the decision.
6. Publish the declaration in the *WA Government Gazette*.
7. Update the Co-ordinated Approval System for the BAM Act with the supporting data and the record of the Minister's declaration, and publish the records to the [WA Organism List](#).
8. Communicate the declaration to biosecurity system participants.

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Prohibited organisms, declared pests and unlisted organisms can be carried into WA in or on potential carriers such as plants, animals, machinery and packaging.

To address this risk, the importation of potential carriers is subject to regulatory controls. Those regulatory controls apply to many permitted organisms, as most of these are also prescribed potential carriers under the BAM regulations.

Stakeholders raised concerns with this approach, saying that import of permitted plants and animals was not always allowed in practice. With importation requirements being difficult to understand and comply with, and that the system relies heavily on authorisations such as permits and monitoring/enforcing compliance, even for things that present a low risk.

The panel also identified that the organism declaration process can be long and arduous, and that it is not practical to assess and declare every single organism or keep the assessments up to date.

¹⁹ <https://www.agric.wa.gov.au/organisms>



Scenario:

A frustrating move ... Jane drives to WA with her stick insect

Jane is moving to WA from interstate by car.

She wants to bring her pet Dr Fink, a beautiful Malanda stick insect (*Malandania pulchra*), and some guava leaf (*Psidium guajava*) for Dr Fink to eat on the long journey.

Jane has heard WA takes biosecurity seriously and, wanting to do the right thing, before she leaves she looks up on the web to see if it is possible to take Dr Fink (and his guava leaf lunch) to WA.

She discovers that they are listed on the WA Organism List as permitted organisms.

Jane thinks, “Great, Dr Fink and his lunch can come with me!”

When Jane gets to the WA border at Eucla, a Quarantine Inspector lets her know that Dr Fink’s lunch is a potential carrier of the prohibited organism, Myrtle rust, and cannot come into WA without a permit.

To get a permit, Jane needs to provide information so that a risk assessment can be undertaken before a permit can be issued. Jane realises that Dr Fink’s lunch can’t be brought into WA today, or this week.

Under contemporary biosecurity legislation, organisms (living and non-living) and their carriers are captured as ‘biosecurity matter’ – a catch-all term for anything that could present a biosecurity risk.

Tasmania’s biosecurity legislation is a useful framework to examine, as its geography allows it to have tight border biosecurity controls – like WA.

How Tasmania defines biosecurity matter

Biosecurity matter is defined in section 12 of Tasmania’s [Biosecurity Act 2019](#) as:

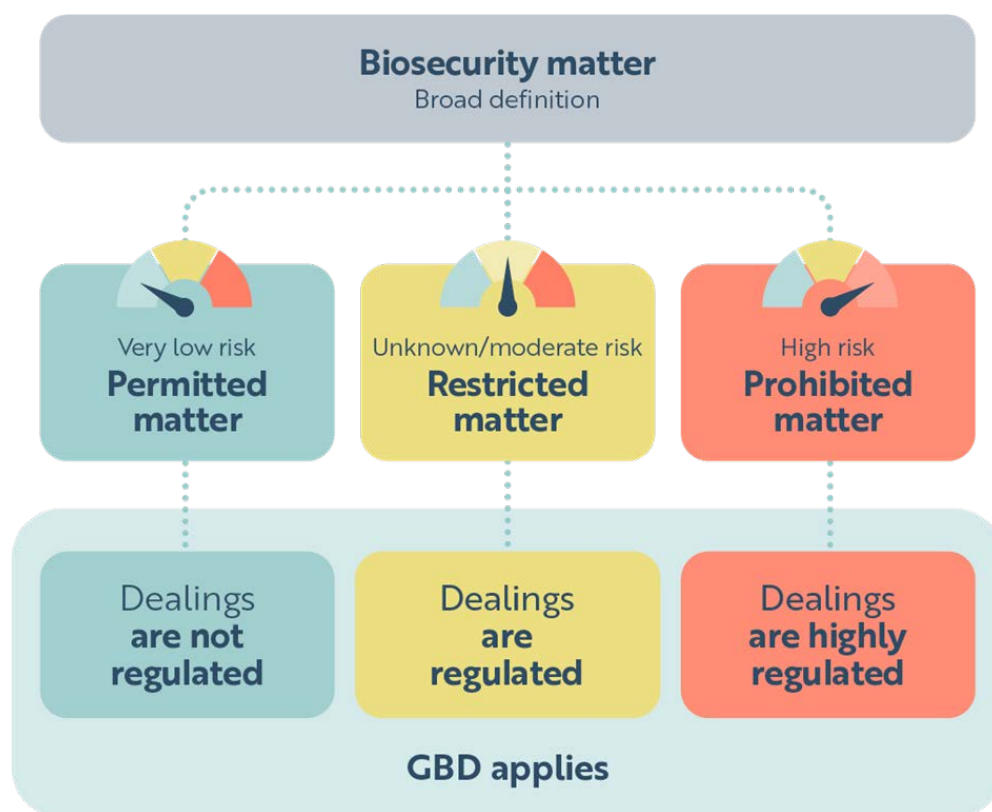
- a) an animal, plant, and other organism, other than a human;
- b) a part of an animal, plant or other organism, other than a human;
- c) an animal product and plant product;
- d) an animal disease and plant disease;
- e) a prion;
- f) a contaminant;
- g) a disease that may cause either or both of the following:
 - i) disease in an animal, plant or other organism (other than a human);
 - ii) disease in a human through transmission to the human from an animal, plant or other organism (other than a human);
- h) any prescribed thing.

²⁰ <https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2019-022>



In Tasmania, biosecurity matter is classified through a risk assessment process into three broad categories²¹:

- **Permitted matter** – a matter is declared as permitted matter and listed on Tasmania’s [permitted matter list](#)²² if the Minister is satisfied that it does not pose a biosecurity risk to Tasmania, or is not a significant risk and is able to be effectively controlled. Biosecurity matter on this list can be imported into Tasmania, and no further biosecurity action is required other than observing the general biosecurity duty (GBD) (see Reform Area 2 for more information).
- **Restricted matter** – a matter is restricted matter if it is not ‘permitted matter’ or ‘prohibited matter’, or if it is declared by the Minister to be restricted matter. This category poses a biosecurity risk that requires some form of regulation. Importation, control and/or management requirements are imposed, relevant to the risk. This framework prevents unknown matter from being imported. Restricted matter must be declared, its risk assessed, and a permit issued for it to be imported. The GBD applies in addition to relevant requirements.
- **Prohibited matter** – matter is declared to be prohibited matter if it is known to pose a high risk to Tasmania. Importation is not allowed or is highly restricted and regulated through strict control and management requirements. The GBD applies in addition to the relevant regulatory requirements.



Broad classification of biosecurity matter in Tasmania

²¹ Declared pest/disease is a fourth category of biosecurity matter established by the Tasmanian Biosecurity Regulations 2022, see regulation 4. This serves to further inform the permitted, restricted and prohibited matter categories. For example, soil is restricted matter because it can carry the pest *Tylenchus* spp. (stem nematodes).

²² <https://nre.tas.gov.au/biosecurity-tasmania/the-tasmanian-biosecurity-compendium/biosecurity-matter-listings/permitted-matter>



Modern biosecurity legislation focuses on regulating things that present a significant risk and, therefore, justify regulation. A risk-based framework such as the one illustrated here can help biosecurity system participants prioritise and respond to biosecurity risks.

During the BAM Act review consultations, stakeholders were concerned that attention and resources were being drawn away from high-risk biosecurity issues to deal with widespread and established pests that do not present a similarly significant biosecurity risk to WA.²³

The simple classification of biosecurity matter can help address this by supporting a more graduated and proportionate response to biosecurity risks and impacts. The classification of matter can support three levels of action provided for by modern biosecurity frameworks:

1. State level – prescriptive legal requirements such as control orders; use of statutory powers such as directions and permits
2. regional/local/industry level – through plans, guidance or codes that can include specific legal obligations or requirements
3. individual/entity level – base harm minimisation through the general biosecurity obligation.²⁴

The approach ensures that biosecurity matter that is not explicitly regulated at the highest level (either because it is lower risk or because it has not yet been identified as a risk) can still be managed via legal means, when warranted.

²³ The risk to WA from widespread and established pests is low. The focus here is on managing the impacts.

²⁴ See Reform Area 2 for more information on the general biosecurity obligation.



Tell us what you think

Opportunity 7

Introduce the definition of 'biosecurity matter' into the BAM Act, and further classify it as either prohibited matter, restricted matter or permitted matter based on the risk presented to WA.

Although this is a fundamental shift and change to the regulation of biosecurity risks and impacts in WA, it is likely to provide a stronger foundation for WA's biosecurity system by:

- reducing administrative burden as risk may be assessed for classes of things, rather than individual organisms
- simplifying the framework, making it easier to understand, explain, deliver and comply with
- helping focus the attention and resources of biosecurity system participants on the areas that are most relevant to them, and
- supporting harmonisation of legislation across jurisdictions.

Significant planning and discussion would need to occur to establish this new framework. Consistent with biosecurity principles established in the IGAB, it would be appropriate to involve relevant biosecurity system participants in this process. A new body (see Reform Area 3) may play a role here.



Reform Area 5. Emergency powers – a necessary precaution

Harmful pests and diseases can spread quickly, with devastating consequences. Emergency biosecurity response powers allow governments to take swift action to prevent or control the spread of pests and diseases that will have significant impact if left unchecked.

Responses to biosecurity emergencies and incidents²⁵ can include quarantining affected areas; restricting the movement of animals and products; destroying animals, plants or products; and undertaking testing and surveillance. Without legal powers to do these things, response delays could occur and result in significant health and economic consequences, cause harm to our native plants and animals, and damage natural and urban landscapes.

The challenge: clear, incontestable legislation to support rapid responses

An aim of the BAM Act is to provide the means to control the entry, establishment, spread and impact of organisms that have (or may have) an adverse effect. However, the role of the BAM Act in biosecurity emergencies is incomplete.

Through the BAM Act review consultations, stakeholders highlighted several shortcomings of the legislation, all of which ultimately impact the ability of the State government to undertake a rapid response to a biosecurity emergency. For example:

- the requirement for approvals from multiple levels of the decision making hierarchy
- provisions that enable a person to contest decisions, which can put an operation on hold while it is being resolved, and
- uncertainties about the extent of authority of the BAM Act in the event of a biosecurity emergency.

It is imperative for biosecurity legislation to be clear, incontestable and fit-for-purpose to enable a fast, purposeful response to a biosecurity emergency.

What we need to achieve

The panel has identified the following key outcome for emergency response powers:

- The WA government can undertake quick and decisive action to prevent or control a pest or disease that has or may have such a significant impact that it warrants the use of emergency powers.

Opportunities for reform

The BAM Act currently contains provision for urgent measures that can be applied when actions must be carried out immediately to control a declared pest. To date, and despite the increasing frequency of emergency biosecurity responses, the provision has never been used.

²⁵ For the purpose of this reform area, the term 'emergency' includes biosecurity incidents. See the glossary for an explanation of the terms.



The measures and actions that have been taken, via the BAM Act, to control pests and diseases in emergency situations include using directions, authorisations, orders, permits, notices or declarations (collectively known as ‘tools’). However, the application of the BAM Act’s urgent measures, and many of the tools, are limited to ‘declared pests’. This means, if a permitted or unlisted organism emerged as a serious risk, those tools could not be used until the declared status of the organism was changed.²⁶

A second factor potentially impacting the effectiveness of a response is that some of the tools used in emergency responses are subject to review by the State Administrative Tribunal (SAT). For example, a person who has received a pest control notice directing them to take certain measures to control a declared pest can request the DG of DPIRD to review the notice. Following the outcome of that review, if they are aggrieved by the DG’s decision, they can apply to the SAT to review the decision. The process may result in delays in conducting the emergency response.

The BAM Act provides for regulations to be created that prescribe circumstances in which the right of review by the SAT is expressly not available. The only such circumstance prescribed in the regulations is with regard to the seizure of perishable items.

Finally, the BAM Act does not provide any guidance as to what an ‘urgent event’ or ‘emergency situation’ is. Nor does it provide clear direction on how and when urgent measures would apply.

In contrast, the intent of Tasmania’s *Biosecurity Act 2019* in emergencies is clear. Emergency preparedness and the effective management of biosecurity emergencies is a core tenet of the Tasmanian legislation. It has defined terms; a suite of tools specific to emergencies; clear instructions on when and how those tools apply; and it sets out the steps that are to be taken, providing for transparent decision making.

A clear and formal declaration of a biosecurity emergency provides agencies with the necessary assurance that, when deemed absolutely necessary, they are able to undertake actions that might contravene other laws.

As an example, actions taken to prevent or control the spread of a pest or disease might negatively impact the environment or Aboriginal cultural heritage. However, the time needed to undertake the application and approval processes associated with environmental or Aboriginal cultural heritage laws and protections could have significant consequences in an emergency situation – consequences that could even result in negative impacts on the environment or Aboriginal cultural heritage.

Section 66 of the [Biosecurity Act 2019](#) (Tasmania)²⁷ deals with such a situation by explicitly removing, during a biosecurity emergency, the usual limitations on powers in the following way:

66. Interaction of functions with restrictions imposed by other Acts

(1) An authorised officer other than the Chief Plant Protection Officer or Chief Veterinary Officer must not, under this Act –

²⁶ Quarantine Notices and Quarantine Area Notices are tools available in the BAM regulations, which are commonly used in emergency situations. These tools can be issued on the suspicion of a harmful (or potentially harmful) organism. That is, it does not have to be a declared pest.

²⁷ <https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2019-022>



(a) destroy or direct the destruction of any protected plant within the meaning of the Nature Conservation Act 2002 ; or

(b) destroy or direct the destruction of any organism that is a threatened species within the meaning of the Threatened Species Protection Act 1995 ; or

(c) destroy or direct the destruction of any relic within the meaning of the Aboriginal Heritage Act 1975 .

(2) Subsection (1) does not apply to the destruction of a thing if that action is prescribed or expressly authorised, or required, by an emergency order or a control order.²⁸

When applying legislation that provides for strong powers and authorities to enable quick and decisive action, it is important to be mindful of what else might be at stake.²⁹ If the necessary actions to contain or eradicate a declared pest impact a culturally significant site or threaten an endangered species, how should these impacts be addressed? Defining a ‘biosecurity emergency’ and activating the associated emergency powers needs careful consideration.

Clear guidance on what constitutes a ‘matter of emergency’ or ‘urgent need’ is vital. This is important to ensuring that any emergency powers – especially when they restrict civil liberties and the right of review, or involve actions that are not consistent with other Acts – are only used in circumstances that warrant it.

Tasmania’s Biosecurity Act 2019 supports emergency responses by

- providing the Minister with authority to declare a biosecurity emergency and establish measures to respond to that emergency
- providing for emergency orders, emergency zones, and emergency measures to be created
- having rules and limitations for using emergency orders, emergency zones, emergency measures
- utilising cost recovery, amendments and protections of emergency orders
- allowing officers to enter premises at any time in an emergency
- having no right of appeal against an emergency biosecurity direction.

If the BAM Act is to be WA’s primary biosecurity emergency legislation, it will be important for it to be able to adequately address biosecurity emergency situations in all contexts. Although this is its intent (see Reform Area 1), aquatic biosecurity emergency responses and responses to exotic animal diseases are addressed in separate pieces of legislation.

²⁸ An emergency order is made to declare a biosecurity emergency and establish the measures to respond to it. A control order establishes a control zone and associated measures to prevent the introduction of risky biosecurity matter, eradicate it or manage it if prevention or eradication is not practicable.

²⁹ Under Tasmania’s emergency order provisions, there are safeguards to ensure this power is exercised with appropriate levels of caution and regard.



As well as needing to be harmonious with other WA legislation, the BAM Act should contain all the powers and authorities needed to address significant biosecurity risks across all situations. This is currently not the case. As an example, the panel has identified that the powers to deal with the most serious of animal diseases in the [Exotic Diseases of Animals Act 1993](#)³⁰ are stronger and may be more effective than the BAM Act.

Tell us what you think

Opportunity 8

Include formal emergency provisions in the BAM Act that can be applied to all biosecurity contexts.

This will ensure quick and decisive action can be taken in the event of a biosecurity emergency, and establish the primacy of the BAM Act during a declared biosecurity emergency.

Careful consideration will be needed to ensure emergency provisions can only be activated in limited circumstances and the actions to be taken are not more difficult or demanding than they need to be.

Opportunity 9

Ensure the BAM Act is positioned to be the primary Act for biosecurity, including biosecurity emergency responses in WA (excluding biosecurity responses relating to diseases that affect only human health).

This will require the BAM Act to have provisions that meet or exceed the powers that are established in other biosecurity legislation such as the *Biosecurity Act 2015 (Cth)*, *Aquatic Resources Management Act 2016*, *Biodiversity Conservation Act 2016*, *Exotic Diseases of Animals Act 1993*, and the *Public Health Act 2016*.

³⁰ https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_314_homepage.html



Reform Area 6. Compensation can boost biosecurity efforts

Compensation and reimbursements are important tools for addressing the direct financial impacts of formal responses to serious pest or disease incursions. By offering compensation or reimbursement in certain circumstances, individuals, businesses and organisations are more likely to report a biosecurity risk and take the necessary, but often costly or destructive, actions to prevent the spread and mitigate broader impacts.

Individuals, businesses and organisations may be reluctant to report a biosecurity risk because of the potential financial losses or costs that may result. However, the outcome of non-reporting can be significant, particularly if incorrect or insufficient action is taken to try to eradicate or contain the pest or disease. As well as helping reduce the impact of the loss or the added costs/expenses on the individual/business/organisation, compensation and reimbursement helps mitigate the risk that people will not report.

Compensation and reimbursement can also help to address issues of equity and fairness in the distribution of costs associated with biosecurity incursions. Those who are affected by an incursion may be required to put in place destructive measures that will deliver benefits to the wider community or industry. Compensation or reimbursement can help to ensure that the costs and benefits of biosecurity response measures are distributed more equitably, for everyone's benefit.

The challenge: operating in an environment of uncertainty

While government and industry can provide compensation or reimbursements in certain circumstances, there is insufficient direction on when it is appropriate, and how it should be funded. This lack of clarity can make it challenging for DPIRD officers and affected individuals/businesses when destructive actions are required to eliminate or contain a harmful pest or disease in a biosecurity response.

Through the BAM Act review consultations, stakeholders clearly identified:

- the significant challenges associated with implementing a biosecurity response when the availability of compensation was unknown, unclear or non-existent
- the positive influence compensation surety has on the reporting of potential biosecurity risks; and, conversely, the widespread, devastating impacts non-reporting could have on WA industries
- the inequities that result from an individual or producer sustaining direct financial losses due to destructive actions to eradicate or contain a pest or disease, while other individuals or producers benefit from these actions
- the need for clear and transparent process so affected people understand the circumstances under which compensation or reimbursements might be paid.



What we need to achieve

Compensation and reimbursement are viewed as a critical gap in the BAM Act. The panel has identified the following key outcome:

- Individuals/businesses are fairly compensated or reimbursed for direct losses³¹, costs and expenses when destructive action is required, using the powers of the BAM Act, to address a high-priority biosecurity risk.

Opportunities for reform

The only compensation provisions in the BAM Act are through industry funding schemes (IFS), which are fully funded by industry, for industry. There are limitations to which pests and diseases the IFS-based compensation/reimbursement can be applied to; and, generally, industries that do not have an IFS in place do not have access to a WA-based compensation/reimbursement mechanism³² (see also Reform Area 7).

However, biosecurity incursions can impact the public, not just industry. Other than the IFS compensation provisions, there are no other compensation provisions in the BAM Act for actions taken by the State to address biosecurity or agriculture management issues.

All Australian states, including WA via the *Exotic Diseases of Animals Act 1993*, have legislated compensation provisions relating to incursions of animal diseases but only some include provisions relating to plant diseases. More contemporary biosecurity legislation provides for statutory compensation (under certain circumstances) relating to a *biosecurity* response – not just disease-related responses.

Cost sharing

Nationally, the [Emergency Animal Disease Response Agreement](#)³³ (EADRA) and the [Emergency Plant Pest Response Deed](#)³⁴ (EPPRD) and include frameworks for cost-sharing compensation/reimbursement across Australian jurisdictions and with industry. In addition, the [National Environmental Biosecurity Response Agreement](#)³⁵ (NEBRA) provides for cost-sharing reimbursements between Australian jurisdictions in relation to an incursion of an emergency pest or disease that impacts the environment or social amenity. The NEBRA, EADRA and EPPRD are only activated in response to incursions of emergency pests or diseases where a national cost-shared response has been agreed. Approval at the national level is necessary before any cost-shared compensation package is confirmed and payments made.

Considering all these factors, WA would benefit from compensatory mechanisms that:

- support emergency action undertaken in WA to eradicate high-risk pests that are found elsewhere in Australia (and therefore not addressed via national compensation/reimbursement arrangements)

³¹ Does not include consequential losses

³² Note that compensation or reimbursements may be accessible through cost-shared national biosecurity responses. The State government can also decide to make ex-gratia payments from time to time. In the context of this paper, it is referring to compensation/reimbursements agreed and paid at the state level separate to national cost-shared compensation/reimbursement or ex gratia.

³³ <https://animalhealthaustralia.com.au/eadra/>

³⁴ <https://www.planthealthaustralia.com.au/biosecurity/emergency-plant-pest-response-deed/>

³⁵ <https://www.agriculture.gov.au/biosecurity-trade/policy/emergency/nebra>



- give confidence to DPIRD and affected individuals/businesses that compensation/reimbursement can be paid in certain circumstances that may not be covered by national arrangements or via an IFS, and
- support timely payments to ensure individuals/businesses can recover as quickly as possible.

Compensation mechanisms outside the BAM Act

WA's [Exotic Diseases of Animals Act 1993](#) provides for compensation.

It applies to the destruction of animals (or property) for disease control purposes where the Minister has published a compensation order – noting that the compensation order identifies the exotic disease that it relates to as well as the class of animal for which compensation will (or won't) be paid.

Biosecurity compensation funds may be created through the Agricultural Produce Commission (APC) fee-for-service funding mechanism, for agricultural sectors that have established a Producers' Committee under the [Agricultural Produce Commission Act 1988](#).

The APC legislation does not provide for the process or circumstances under which compensation is payable – it only allows compensation schemes to be one of the services delivered by a Producers' Committee.

It is up to the industry, via the Producers' Committee, to decide if a compensation scheme will be established.

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Under biosecurity legislation across Australia, compensation is only available for direct losses. Consequential losses (e.g. loss of profit, loss of production, loss occasioned by breach of contract etc.) are not contemplated.

Where compensation or reimbursement is available to support biosecurity responses, guidelines and or legislative provisions clearly define the circumstances under which compensation or reimbursement is payable; and guiding principles support these. It is generally accepted that an affected party should be no better or worse off than an unaffected person/property because of the actions taken to eliminate or contain a harmful pest or disease.

Legislation typically also includes provisions outlining how the amount of compensation or reimbursement is calculated, how applications for compensation or reimbursement are made, and dispute processes. Any legislated compensation or reimbursement provisions will need to make clear the circumstances under which such payments are made.

The panel acknowledges that work is required to identify and agree on the details of any compensation or reimbursement provisions that might be included in the BAM Act. However, at this stage, and based on the findings from the BAM Act review so far, biosecurity compensation or reimbursement should:

- apply only when destructive actions taken under the BAM Act are required during a formal biosecurity incident or emergency response

³⁶ https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_18_homepage.html;
https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a261.html



- in relation to compensation, cover direct loss or damage to plants, animals and property (exclude indirect and consequential losses)
- in relation to reimbursement, cover costs/expenses of actions required to be taken as a result of a biosecurity incident or emergency response
- complement the BAM Act's IFS compensation provisions
- not be payable if a like benefit is payable under another mechanism, and
- not be payable if a person fails to report the presence of the pest or disease that the compensation or reimbursement relates to, or if the destructive action (or cost/expense) is caused by failure to comply with the Act.

Tell us what you think

Opportunity 10

Include appropriate compensation and reimbursement provisions in the BAM Act.

These are to cover direct loss or damage to plants, animals and property, and the costs/expenses incurred, because of destructive actions undertaken using the powers of the BAM Act during a biosecurity incident or emergency.

The provisions must exclude payments relating to indirect and consequential losses.

Consistent with biosecurity principles established in the IGAB, it would be appropriate to undertake a co-design process to further develop any compensation or reimbursement provisions.

This would include identifying and agreeing on the details of any legislated compensation and reimbursement provisions (who is/isn't eligible, how amounts are calculated, how applications are made, dispute processes etc.).



Reform Area 7. Enabling industries to act

The biosecurity of Western Australian industries is important to WA's economy, environment and rural communities. Effective biosecurity measures can prevent the introduction and spread of pests and diseases that can:

- damage crops, animals and products, reduce productivity, increase production costs and decrease the value of exports
- prevent producers from accessing high-value export markets
- have devastating effects on biodiversity and ecosystems
- destroy infrastructure, and
- damage WA's reputation as a reliable supplier of high-quality food and fibre products.

Legislative measures that support and empower industries to effectively manage biosecurity risks and produce quality products can have positive outcomes for rural communities and WA as a whole. It is beneficial for the government to have laws and regulations that support and empower industry to take actions that contribute to this (see also Reform Area 2).

The challenge: encouraging industries to achieve their biosecurity goals

Effective biosecurity requires cooperation across and within industries to help prevent, detect, eradicate and minimise the spread of pests and diseases, and to stay ahead of new and emerging risks. The BAM Act provides several avenues to support, enable or require industry action on biosecurity – for example, industry funding schemes, management plans, codes of practice and the ability to accredit businesses to issue assurance certificates for export purposes.

Although the BAM Act provides a framework to enable industries to act, it does not mean that all industries are making use of the legislated mechanisms and available tools. Stakeholders said it was vital for industry to proactively seek to do this. However, this also creates a tension.

On the one hand, the goal is to empower industry to decide when and if it would like to use legislative tools to help achieve their biosecurity goals; on the other hand, there is a real need for all industries to actively participate, so that there are no gaps in the biosecurity system. The challenge is supporting industry to make full use of the legislated mechanisms, tools and provisions that are available.

What we need to achieve

The panel identified the following key outcome:

- WA industries can access and take advantage of legislated support structures to establish and deliver collective and coordinated biosecurity actions for their priority pests and diseases.



How industry funding schemes work

Under the BAM Act, regulations may be made to establish industry funding schemes (IFSs).

IFSs are industry-driven schemes to raise funds for programs to address the industry's priority declared pests, including any associated compensation.

They are voluntary schemes, with producers/growers able to opt out and forego the benefits of participating.

Across the industries that could have an IFS (apiculture, aquaculture, forestry, viticulture, horticulture, agriculture, nursery industries etc.), only three have been established – a Cattle IFS, a Sheep and Goat IFS, and a Grains, Seeds and Hay IFS.

Industry drives the use of the BAM Act's IFS provisions, deciding if, when, where and to what extent the schemes are used in practice.

An industry-based Industry Management Committee oversees each IFS and decides how the funding is used to deliver industry-wide benefits.

Opportunities for reform

The BAM Act includes significant powers to make regulations relating to quality assurance (QA) and industry funding schemes, issue management plans and approve codes of practice (even codes that are issued by industry) – all of which can be used to support or empower industry to manage its biosecurity risks.³⁷

Certification of quality assurance

Through the BAM Act review consultations, several stakeholders (many of whom were from industry) felt there were inefficiencies in the regulated processes WA businesses must undertake to trade. Processes associated with evidencing that a product meets a specific biosecurity standard were highlighted. Stakeholders suggested that these processes could be much more efficient if industry played a more active role in facilitating them. There were three aspects:

1. supporting producers to meet the standards required to sell to their preferred customers/markets, e.g. via quality assurance (QA) schemes
2. authorising third parties to accredit businesses to issue assurance certificates, and
3. more efficient processes to verify that products and processes meet the appropriate standards (e.g. inspections and audit).

Under the BAM Act's QA and accreditation regulations³⁸, the DG of DPIRD accredits a person to issue assurance certificates to evidence that a product meets certain requirements for trade purposes. When granting or renewing an accreditation, DPIRD is responsible for the administration and audits to ensure the terms and conditions of the accreditation are met.

³⁷ Compliance with a Management Plan or code of practice can also show that a person is discharging their general biosecurity obligation/duty (see Reform Area 2).

³⁸ Biosecurity and Agriculture Management (Quality Assurance and Accreditation) Regulations 2013



There are also provisions that enable the Minister or DG to recognise import or export certificates that have been issued under a corresponding law of the Commonwealth or another Australian jurisdiction. This includes certificates issued through third party accreditation schemes in other Australian jurisdictions.

In these third-party accreditation schemes, government audits the third party; the third party accredits the business to issue assurance certificates; and the third party audits the business to make sure it continues to meet the terms of the accreditation. This enables industry to play a more active role in the regulatory process, creating opportunities for industry-driven innovation, efficiencies and outreach. In WA, a third party cannot currently be authorised to accredit a business to issue an assurance certificate.

Funding biosecurity incident responses that benefit industry

A small number of industry stakeholders also suggested a broader legislative base was required to enable funds to be collected from industry (even though there are provisions that already enable this). It was envisaged that the funds would be used to support growers/producers during a biosecurity emergency or incident response.

Action is needed to ensure industry is aware of the legislated mechanisms/tools that are available to support its collective and coordinated biosecurity action under the BAM Act (such as industry funding schemes) as well as those available under other legislation such as the fee-for-service under the [Agricultural Produce Commission Act 1988](#).³⁹

It is also beneficial for industry and government to know who will be responsible for paying for an incident response and how, before an incident occurs. Cost-sharing in biosecurity is a critical part of 'shared responsibility'.

What if the destructive varroa mite came west?

Varroa destructor (varroa mite) – considered the single greatest threat to Australia's honey and honeybee pollination plant industries – was detected in NSW in 2022, and an \$18 million compensation package was announced. The eradication program was continuing as of May 2023.

What if the varroa mite can't be eradicated?

WA beekeepers are worried that the mite will not be eradicated and will be regarded as 'established' in Australia.

If it were to become established in NSW or other states, it doesn't necessarily mean that it would become established in WA. In fact, WA's geography and our strict biosecurity laws mean there is a chance that we can keep the mite out.

What would happen if it does arrive in WA?

If the varroa mite were to establish in eastern Australia, sharing the costs – including the compensation costs – of an eradication campaign in WA with other Australian jurisdictions is unlikely.

The WA industry is worried about what this would mean. Would the State government commit funds to eradicate the pest if it were to spread to WA? Would the State government commit funds to compensate affected beekeepers?

The WA beekeeping industry has already expressed its concerns and is keen to be on the front foot by having an industry-government agreement in place and the funding mechanisms to raise industry funds to support the industry.

³⁹ https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_18_homepage.html



Tell us what you think

Opportunity 11

Ensure third parties can be authorised to deliver accreditation schemes with industry.

This will support more efficient import/export of products and deliver biosecurity and product integrity outcomes for industry.

Authorisation to deliver a third-party accreditation scheme would need to involve a robust state-based audit of the authorised third-party businesses, supported by significant penalties to discourage non-compliance.

Opportunity 12

Introduce industry-government biosecurity response agreements at a state level to formalise roles and responsibilities, including cost-sharing, during a biosecurity response relevant to industry.

This will encourage industry to consider how it can use the legislated mechanisms/tools that are available to support collective and coordinated biosecurity action (e.g. industry funding schemes under the BAM Act; and fee-for-service under the *Agricultural Produce Commission Act 1988*).

The response agreements would only be in relation to pests and diseases that are not covered by national biosecurity response arrangements and could also address compensation (see Reform Area 6).

The response agreements should provide a pathway for the State government to cover the upfront costs of a response, with provisions for industry to repay its share, similar to the national biosecurity response arrangements.

Significant planning and discussion would need to occur between industry and government to identify and agree on which pests and diseases warrant a formal agreement (underpinned by science/evidence), the cost-sharing arrangements, the mechanism to raise funds from industry, and what would happen if an arrangement were not put in place. A new body (see Reform Area 3) may play a role here.



Reform Area 8. Community-led pest management

Working together through coordinated, community-led pest management can be very effective when it comes to managing widespread and established pests that have an impact on the economic, environmental, social or cultural assets of a community.

A community-led approach brings people together, fostering a sense of community and collective ownership for addressing pest problems – as well as harnessing local knowledge and expertise. It results in benefits that are greater than the sum of individual efforts – especially when actions are coordinated at a regional or landscape scale.

A community-led pest management approach not only supports WA's biosecurity system, it also contributes to sustainable land management, conservation practices and Caring for Country. It is, therefore, beneficial for the government to have laws and regulations that support and empower communities to manage pests that impact them, their region and the state as a whole.

The challenge: sustaining an ongoing collective effort

Managing widespread and established pests is unrelenting and can be resource intensive. Pests can be highly mobile, transcend geographic boundaries and threaten both public and private assets.

The challenges identified in the other reform areas of this paper also impact this aspect of biosecurity.

All land managers, including the state and local governments, have a responsibility under the BAM Act to control declared pests on their land. Community-led pest management is intended to augment, but not replace, these obligations. Individual and collective efforts benefit everyone but acting together is likely to be more effective.

With increasing pressure on the biosecurity system, state-led action and resources need to target high-risk pests and diseases that have not yet arrived within our borders or that have arrived but can be eradicated or contained. This is critical to preventing new pests from becoming widespread and established (see also Reform Area 4).

Unless high-value public assets are at stake (e.g. endangered species populations or high-value productive industries), it is generally not sustainable or effective for the State government to be the sole investor in, or driver of, programs targeting established pests.

Committed community leadership and action are needed to deliver meaningful outcomes. However, with WA's diverse landscapes, communities and pest management issues, it is challenging to provide a sustainable model to support community-led pest management efforts.

Community groups alongside local governments have an important role to play in determining which pests should be targeted in their local areas. However, there can be very different and, at times, competing views within and across communities about which pests should be the focus of collective management efforts.

What we need to achieve

The panel has identified the following key outcomes for enabling community-led pest management:

- Local communities, networks and groups are supported to lead and undertake coordinated action to manage the impact of widespread and established pests on



- assets important to them, their region and the state as a whole.
- Action undertaken by local communities, networks and groups is effective and efficient, and contributes to the management of priority pests locally, regionally and for the state.

Providing a foundation for widespread and established pest management reform

The opportunities for reform outlined in this discussion paper will provide a strong foundation to improve the collective management of widespread and established pests. These include the opportunity to:

- introduce a 'general biosecurity obligation' in recognition that everyone benefits from an effective biosecurity system and has a responsibility within this system, including managing the impact of widespread and established pests (see Reform Area 2)
- improve biosecurity communications and engagement, so everyone understands the benefits of an effective biosecurity system, and their role and responsibilities to support the system (see Reform Area 2)
- improve planning and reporting so those involved in biosecurity efforts understand what action will be undertaken, by who, when and why, and contribute to the decision-making process (see Reform Area 3)
- improve DPIRD's regulatory compliance approach through improved communications and engagement with biosecurity system participants, and an ongoing program of biosecurity behaviour change research to inform interventions (see Reform Area 9).

Opportunities for reform

In addition to the consultation and engagement processes undertaken by the panel in Stages 1 and 2 of the review, an independent evaluation was commissioned to assess the Declared Pest Rate – Recognised Biosecurity Group (DPR-RBG) model and its role in supporting WA's biosecurity system. This section is informed by this work.

The Declared Pest Rate – Recognised Biosecurity Group model

The BAM Act prompted a significant transition in the management of widespread and established declared pests, from the State government taking a direct role in controlling these pests (through the Agriculture Protection Board) to a community-coordinated approach. This approach is currently supported under the BAM Act through the DPR-RBG model.

Over the last decade, concerns with how this model operates have been raised by various bodies, including the Office of the Auditor General, the Biosecurity Council of WA and the Western Australian Local Government Association. RBGs have also expressed concern at operating within the existing model, and community support for the model varies significantly across the state, especially in the South West where petitions have been raised against it.



Under the BAM Act, the State operates a compulsory, land-based rating scheme, referred to as the Declared Pest Rate (DPR). The DPR raises funds from landholders on specified classes of land within prescribed local government districts for the purpose of funding declared pest control activities. The funds raised are matched dollar-for-dollar by the State and deposited in a State-administered Declared Pest Account (DPA).

DPA funds must be used on activities associated with controlling declared pests in the area from which the rate was collected. Landholders who pay the rate will reasonably expect to benefit from the pest management activities they help fund.

DPA funds are currently made available exclusively to groups recognised by the Minister, known as Recognised Biosecurity Groups (RBGs). Formal recognition by the Minister enables funds from the DPA to be transferred to the groups. This legislated practice is unusual – typically, funding programs have program guidelines that identify eligible entities.

RBGs use DPA funds to help landholders meet their obligations to control declared pests on their land. The groups also use DPA funding to coordinate or undertake pest management activities, awareness initiatives and education. RBGs work with their communities to determine which declared pests are priorities for action, and they collaborate with other organisations to manage pests at a landscape scale.

There are currently 14 RBGs in WA, with their operating areas covering more than 95% of the state's vast land area. However, there are noticeable gaps in areas with substantial agricultural production and ecosystem biodiversity.

While not a legislative requirement, RBGs have formed as specialist groups whose primary focus is on declared pest control using DPA funds.

Under the current model, other groups undertaking pest management activities, such as local governments and natural resource management groups, have not been encouraged to seek recognition to access DPA funds.

In 2022-23, approximately \$6 million will be made available to RBGs.

There is considerable operational diversity across the RBG areas of operation, in terms of the number of landholders, the size of rating areas, and the types of declared pests that are targeted. Where there are a high number and diversity of landholders, it can be difficult for RBGs to get consensus around the importance of pest control and the need for collaborative action.

The DPR-RBG model evolved relatively quickly from small numbers of pastoral leaseholders with vast landholdings who paid a rate and participated in the former 'zone control authorities', to approximately 22,000 landholders of different land types and sizes across the state now paying a DPR.

While the BAM Act allows for only two core rate methods for the DPR (*ad valorem* and flat rate), the component factors used to apply these methods, such as land size and types or classes of land, result in a complex array of different rating combinations across the 14 rating areas. In 2022-23, there were 35 gazetted rate calculations, which resulted in 79 potential rate combinations.

While the DPR and RBG legislative provisions are separate in the BAM Act, this separation has not carried through in how the model has evolved and currently operates.



Supported by the State, RBGs were instrumental in developing the rating method to be used in the rating area that aligns with their area of operations. RBGs still provide input to the Minister’s annual rate determination process.

Operational diversity across RBGs 2022/23

	Rangelands	Agricultural	South West
Number of RBGs	5	6	3
RBG operational area size	2,190,154 km ²	208,764 km ²	18,098 km ²
Number of ratepayers	337	6,249	15,890
Average rate per ratepayer	\$4,580	\$138	\$42
Annual funding (\$m)*	\$3.08	\$1.72	\$1.34
Ratio of ratepayers to RBG	67	1,042	5,297

**Annual funding and average rate per ratepayer are based on forecast rate revenue and matched funds*

The activities and approach of RBGs differ depending on the regional context in which they are located.

Southwest RBGs tend to focus on equipping, educating and enabling landholders to fulfil their legal obligations to control pests on their land. Activities include field days, machinery hire, and communications material.

Rangelands RBGs take the more direct approach of engaging pest control contractors (e.g. Licensed Pest Management Technicians) to set traps, lay baits and shoot pests through aerial shooting programs.

Agricultural RBGs lie somewhere in the middle, employing a mix of direct control approaches and supporting landholders to undertake their own control activities.

The types of established declared pests targeted by RBGs also vary by region.

In the Rangelands, the priority pests are wild dogs and large feral herbivores (donkeys, camels and feral horses) with some focus on declared pest plants such as cactus, Parkinsonia and mesquite.

In the Agricultural region, wild dogs, feral pigs and foxes are the main priority, and large feral herbivores tend to be less so.

In the South West, targeted animal pests typically include rabbits, foxes, feral pigs and various weeds such as cottonbush, blackberry and poke weed.

The complexity of the rating scheme and how it currently operates is difficult and costly to administer. It is also hard for ratepayers to make sense of. Other key issues raised by stakeholders through the BAM Act review consultations and independent evaluation regarding the DPR-RBG model were:

- **Objections to being charged a DPR and for those funds to go to RBGs.** This issue was particularly evident in the South West.
- **Fairness of the DPR** because it does not apply to all landholders or regions of WA (or applies differently across regions).

A DPR applies in only 47% (65 of 137) of local government districts across the state, and significant community-led pest management activities can and do operate in the absence of a DPR and an RBG.



- **Not enough resourcing** being committed to community-led pest management activities both within and outside the DPR-RBG model.
Funding for managing pests that impact our natural environment was considered lacking, and the model criticised for being too focused on pests of concern to pastoral and agricultural interests. There was also the perception that both state and local governments could be doing more to control declared pests on public land.
- The **level of State government compliance and enforcement activities** for established and widespread declared pests was widely criticised for being insufficient.
- RBGs, DPIRD and RevenueWA experience **various administration difficulties** with working efficiently and effectively within the current model due to constraints with how it has evolved and is operating.
- **Effectiveness of RBGs at supporting landholders to manage pests on their land was questioned.**
However, there was also a misconception that a sustained presence of pests means that RBGs are not effective. This is not necessarily the case as the management of widespread and established pests is an ongoing task that requires all land managers to continue to act.

Despite the challenges, RBGs undertake valuable pest management work in their communities using the DPR and matched funding they receive. They attract a strong and dedicated cohort of volunteers that are knowledgeable of the local landscape and well-networked in the community. While on-the-ground pest management outcomes can be difficult to measure, several RBGs have been able to demonstrate positive impacts for agricultural landholders from targeted pest animal control efforts (such as for wild dogs and feral pigs).

The panel acknowledges that significant effort and resources have been invested in the DPR-RBG model over the last decade, as the State's primary response to the management of established and widespread declared pests. However, the panel considers that the current model is neither sustainable nor able to adequately contribute to WA's biosecurity system into the future.

How the State enables community-led pest management needs reform.

The following section outlines the reform opportunities the panel has identified to address this, presented as an alternative model.

Alternative model for supporting community-led pest and weed management

Clear strategic direction and objectives for the State's role in community-led pest management is needed for a community-based model to succeed. According to WA's IGAB responsibilities, the State government's role is to:

- support landholders and the community to reduce the impact of established pests (community-led pest management) on primary industries, our unique environment and our way of life
- maintain and strengthen cooperative partnerships with biosecurity system participants including local governments, biosecurity and environmental groups, and the broader community.



The alternative model presented in this section retains and builds on the funding stability provided by a legislated rate and matched funds. This is important given that pest management requires ongoing and sustained action. The panel considers it appropriate to retain the current practice of using the DPR and matched funds specifically for widespread and established declared pests (although the BAM Act currently provides for these funds to be used for any declared pest).

The intent of the panel's proposed alternative model is to support locally-based activities and solutions. Importantly, it:

- simplifies the rating approach and broadens the revenue base in a targeted way
- retains public matching of funds raised through the rate, dollar-for-dollar
- strengthens planning and coordination for widespread and established pest management within the broader biosecurity system framework, including providing a mechanism for local voices to have a say on funding allocation and prioritisation
- pools the rate and matched funding and apportions it to specific purposes: base level local/regional coordination; priority pest management projects and programs; compliance program costs; and administration of the funding scheme (including audit and acquittal processes)
- broadens the range of entities eligible to receive funding, and
- incentivises financial and non-financial co-contributions from funding recipients to increase overall investment in the system.

These model features are outlined further below.

Simplify the rating approach and broaden the revenue base in a targeted way

A key strength of the DPR is that it provides a dedicated and ongoing funding source for pest management activities in WA. The raising of a rate is consistent with the principle of shared responsibility and requires the primary beneficiaries of coordinated pest control (i.e. landholders) to contribute to the costs.

Other states have funding mechanisms in place for this purpose. NSW Local Land Services and South Australia's Landscape Boards raise rates from landholders to support natural resource management efforts, which includes pest management.

While the panel supports the ongoing use of a DPR to raise funds, the current rating structure and process need significant reform. The panel considers the changes outlined below are justified to achieve simplicity, equity and efficiency in raising the revenue. Specifically, these changes will enhance accuracy and transparency in rating calculations, streamline the rating process, decrease government administrative costs and make it easier for ratepayers to understand.

The panel considers that a progressive *ad valorem*⁴⁰ rate is the fairest and simplest basis for determining the rate charged. To improve the efficiency of rate administration, the rate should align as closely as possible to the way RevenueWA administers other levies applied to land (Land Tax and the Metropolitan Regional Improvement Tax), and have the following characteristics:

⁴⁰ A rate based on the aggregated unimproved value of land and which progressively increases (in defined brackets) as the total value of land owned by an individual entity increases.



- apply a single uniform, progressive *ad valorem* rating structure
- use Land IDs as the basis for assessing the value of landholdings owned by an individual entity rather than Valuation Entity Numbers
- applies the *ad valorem* rate to the aggregate unimproved value of land held by each individual entity
- applies a minimum flat rate⁴¹ and a capped maximum rate per individual entity, and
- applies a minimum land area threshold for land to be rated.

Under this simplification, a DPR would be applied across WA to freehold or leasehold rural land classes of sufficient size. The intention is to capture land that has significant land management requirements (including pest control) to appropriately target landholders who would primarily benefit from coordinated community pest management efforts.

In this context, this would include land of a minimum size (e.g. one, five, or 10 hectares) with rural characteristics such as agricultural and pastoral properties, privately-owned conservation land, market gardens, vineyards and rural lifestyle properties. There is land that is considered rural in the Perth metropolitan area and other regions across the state, which is not rated under the current system. Under the proposed alternative model, a DPR would apply to this land.

Local, state and federal government-owned land and Crown land (such as parks and reserves), which is not currently rated, or which cannot be rated⁴², would continue to not pay a rate.

Importantly, the rate would apply to land independent of any particular pest management group (e.g. an RBG) operating in the area.

The panel recognises that this would be a significant change to the current rating model. It involves moving away from the existence of an RBG being the trigger for a DPR to be raised in an area (and RBGs being involved in the rating approach), to a system where a single progressive *ad valorem* rating structure is uniformly applied to specified land across WA.

How the DPR funds would then be allocated is addressed further in this reform area.

The panel considers these changes will significantly simplify and broaden the geographic coverage of the rate, and better target landholders who directly benefit from coordinated pest control activities. It will also help to alleviate concerns that the rate is applied unfairly.

The panel acknowledges that further work, including extensive consultation, is required to determine the exact rating parameters to be used and the land size, type and classes to be rated.

Using two progressive *ad valorem* rating structures may be justified to account for the significant differences in unimproved land values between the Rangelands and the rest of the state.

⁴¹ A minimum flat rate applied to an individual entity whose aggregated unimproved land value is below a defined threshold.

⁴² There are various entities that cannot be rated under various legislation.



What would this different rating approach look like?

Where landholders currently pay an *ad valorem* rate (in the Rangelands and some Agricultural areas) this would continue but how these rates are calculated would be different.

Where landholders currently pay a flat rate (in some Agricultural areas and the South West) they would no longer be charged in this way and would instead be charged using an *ad valorem* rate.

It is anticipated that some landholders who currently pay a rate on smaller properties (e.g. those with a land size between 1-10 hectares) **may no longer be required to pay a rate**.

Landholders who don't currently pay a rate (within or outside an existing rating area) would be required to pay a rate on land with rural characteristics above the minimum size threshold (e.g. one, five or 10 hectares)

Retain public matching of funds raised through the rate, dollar-for-dollar

The panel considers the current dollar-for-dollar matching of the DPR by the State government a strength of the model. It supports the principle of shared responsibility by providing a base level of secure government funding for pest management activities equal to the direct financial contribution made by ratepayers, and it creates scale in the funds available for pest management activities.

It also recognises the large public landholdings (which are typically not rated) that benefit from coordinated community-led pest control efforts, and that these collective efforts deliver important public benefits, such as environmental protection.

Options the panel will not progress

Replacing the DPR with fully publicly funded grants scheme

The panel considered the option of replacing the DPR with a fully publicly funded grants system to support community-led pest management efforts across WA.

This option has several benefits, such as administrative simplicity and greater capacity for investment to be directed to changing pest priorities. However, on balance, the panel does not consider this as a viable option. It does not adequately support the principle that those who benefit from an activity should contribute to the costs of that activity. There is also the risk that the funding will erode overtime and there is insecurity in funding from one year to the next. A sustained long-term funding commitment is required to manage pests.

A whole-of-state biosecurity levy

The panel considered the option of replacing the DPR with an Emergency Services style levy administered by local governments. The panel did not consider this a viable option for managing widespread and established pests, or WA's broader biosecurity system.

While everyone benefits from an effective biosecurity system, it is appropriate that everyone contributes according to their role in that system. This means that direct public funding of WA's biosecurity system is best supplemented through a mix of revenue-raising mechanisms tied to specific roles in the system, and the benefits gained.



Strengthen planning and coordination for managing widespread and established pests

A planned approach to pest management at a state-wide level is important for the efficient and effective operation of WA's biosecurity system (see Reform Area 3). The panel recognises, and agrees with key stakeholders, that overall strategic direction, planning and coordination for the current DPR-RBG model requires significant improvement.

In the context of managing established and widespread pests, a planned approach would involve:

- prioritising the allocation of resources to where the greatest return on investment can be achieved, in terms of protecting assets from the impact of pests
- pest management activities that are undertaken according to a cost-effective, science-based and risk-managed approach
- State and local government investment in pest management that is targeted to the greatest public good, and
- land managers, community groups and local governments being involved in planning and decision making according to their roles, responsibilities and contributions.

It is appropriate that a co-design process be used to develop the specific arrangements and framework for planning (and reporting) the management of widespread and established pests as one element of WA's biosecurity system. At a minimum, this will require collaboration and representation from local communities and governments to allocate and prioritise funding within a broader biosecurity system framework. This will not only improve the effectiveness of activities funded through the community-led model, it will also help to coordinate and align efforts with other State programs for managing widespread and established pests (e.g. the [Wild Dog Action Plan](#)⁴³, [State NRM grants](#)⁴⁴ and [Western Shield](#)⁴⁵).

The reform opportunity identified in Reform Area 3 will ensure that appropriate planning systems and processes (at state, regional and local levels) are in place for coordinated community-led pest management.

Funding to be pooled and apportioned

The simplification of the rate as detailed above enables, under the panel's proposed model, for both rate and matched government funds to be pooled then apportioned across the state for specific purposes. A defined methodology, determined through the improved planning and coordination processes, should be used to do this. The panel acknowledges the value of maintaining the nexus between local revenue and local impact. Landholders who pay the rate will reasonably expect to see, and benefit from, pest management activities being funded in their local area.

⁴³ <https://agric.wa.gov.au/n/5973>

⁴⁴ <https://www.wa.gov.au/organisation/departments-of-primary-industries-and-regional-development/state-natural-resource-management-program>

⁴⁵ <https://www.dbca.wa.gov.au/parks-and-wildlife-service/wildlife-and-ecosystems/western-shield>



While it is intended that the vast majority of funds raised will be spent locally, the panel considers it vital that a level of flexibility and resilience is built into the system, through pooling the funds for allocation across WA. By removing the unnecessary rigidity of the current system where DPA funds cannot be reallocated across the 14 existing rating areas, the alternative model will be able to quickly respond to changing pest behaviours and priorities across regions, as well as withstand inevitable annual fluctuations in revenue raised.

The panel considers it appropriate that funds be apportioned to:

- local/regional coordination (base level of funding to coordinate pest management activities)
- priority pest management projects and programs (funding for short and longer-term pest management projects and programs, at appropriate scales)
- compliance programs (costs involved for state or local government to deliver targeted compliance activities to support priority pest management programs)
- administer the funding scheme – this incentivises a rating approach that is cost-effective to administer
- audit and acquittal processes – to ensure appropriate tracking and quality assurance on programs receiving public funds.

A flexible funding system, underpinned by a planned approach to apportioning funds, will be better placed to support pest control efforts across geographical areas, including metropolitan areas where relevant, compared to the current system that can be hampered by rigid and artificial funding boundaries.

Entities eligible to receive funding to be broadened and co-contributions incentivised.

There are many suitably skilled entities across WA that undertake activities to control widespread and established pests, such as local governments, Aboriginal groups and enterprises, regional Natural Resource Management groups and other Landcare and pest management community groups.

Under the panel's proposed model, DPR and matched funds would support the diversity of groups, interests and activities involved in these management efforts. This is a significant change from how the model currently operates, whereby RBGs have exclusive access to these funds within the area that they operate.

The panel considers that broadening the range of entities eligible to receive funds would add further depth and breadth of expertise in pest management knowledge and skills, and in other areas such as governance and communications. It will also support existing or new entities to leverage already established community networks and capacities in ways that make sense to them. Importantly, opening the funding up to other entities will help to address the bias of the current model toward the control of agricultural pests.

This approach could enable, for example, an entity to manage feral pigs at a regional or level to be funded under the proposed model. That entity could then work with a network of local groups to coordinate on the ground action across the region(s). The proposed model could also support smaller, localised community groups to target a specific pest of concern to them through small grants.



Current RBGs are well placed to continue to make a valuable contribution within an expanded delivery model. They have established knowledge and experience in working with local communities to plan and prioritise resources and efforts, and to coordinate the location and timing of pest control activities to achieve maximum effectiveness.

The panel also considers it essential that the model incentivises co-contributions (both financial and/or in kind) from eligible entities, with the intention of bringing more investment into the system. This supports the principle of shared responsibility, would provide greater leverage on the investment of public funds and further encourages coordinated collective action. Co-contributions (or co-funding) is a common characteristic of many funding programs.

Co-contributions

Co-contributions can be cash (such as income) or in kind (such as volunteer time, consumables or materials) resources that are donated or provided to a pest control project/program.

In the context of widespread and established pest management, co-contributions could take many forms, including local governments committing funds to priority pest control programs, private companies (e.g. mining companies) providing funds to local community-led pest management projects or RBGs mobilising landholder resources (such as time, service delivery fees, machinery) to target priority pests.

Importantly, introducing a level of contestability and incentivising co-contributions into the model will help drive efficiencies, performance and innovation in the delivery of pest management activities.

The panel recognises that opening the funding up to a broader range of entities should only be done within the context of a stronger planning and reporting framework – at the state, regional and local level (see Reform Area 3). Such a framework ensures that pest priorities are agreed, coordination and delivery entities involved in pest control efforts are appropriately identified, and everyone is working effectively together towards shared outcomes.

Strengthening Partnerships

There is considerable scope for small community groups (such as RBGs) to attain efficiencies in local administration by partnering with entities that deliver similar activities and/or that have relevant pre-existing capacity (e.g. relating to governance, administration or communications). This could be achieved through smaller pest management groups being organised within a larger entity's infrastructure to share overheads and administrative functions.

Such partnerships would strengthen governance support to smaller community groups and help to alleviate some of the difficulties they experience in finding and retaining suitably skilled staff for a number of the functions that are already being done by other groups. It would help to reduce the duplication of administration costs across entities operating in the same areas, ensuring that any funding received (and resources more broadly) is appropriately focused on delivering pest management services.



Tell us what you think

Opportunity 13

Simplify the rating approach and broaden the revenue base of the Declared Pest Rate (DPR) model through a uniform (where possible) progressive *ad valorem* rating structure applied to land across WA that has significant land management requirements (including pest control).

This would appropriately target landholders who would primarily benefit from coordinated community pest management efforts.

Under this simplification, a DPR would be applied across WA to freehold or leasehold rural land classes of sufficient size.

In this context, this would include land of a minimum size (e.g. one, five or 10 hectares) with rural characteristics such as agricultural and pastoral properties, privately-owned conservation land, market gardens, vineyards and rural lifestyle properties.

Opportunity 14

Retain the State government legislated dollar-for-dollar matching of funds raised through a DPR.

This recognises the significant public land estate and public benefit from a coordinated community-led approach.

Opportunity 15

Within the planning (and reporting) framework and arrangements for managing widespread and established pests, apportion pooled DPR/matched funds to:

- local/regional coordination (base level of funding to coordinate pest management activities)
- priority pest management projects and programs (funding for short and longer-term pest management projects and programs, at appropriate scales)
- compliance programs (costs involved for state or local government to deliver targeted compliance activities to support priority pest management programs)
- administer the funding scheme
- audit and acquittal processes for the funding received.

Opportunity 16

Broaden the range of pest management entities that are eligible to receive pooled DPR/matched funds, and incentivise co-contributions from funding recipients.



Reform Area 9. Compliance with WA's biosecurity laws

Compliance with legislation is important. Laws and regulations exist to protect individuals, businesses and society as a whole. Failing to comply can result in a variety of negative consequences including harm to people or the environment, damage to an industry's reputation, legal action and penalties.

Penalties, such as fines or imprisonment, are used to discourage non-compliance. They serve as a form of punishment, helping to ensure that those who break the law face consequences for their actions.

The challenge: deterring non-compliance and encouraging compliance

Compliance with the requirements of the BAM Act is fundamental to protecting WA's \$10 billion agriculture and food sector, unique natural and urban environments, and our social and cultural practices. However, like other reports relating to WA's biosecurity⁴⁶, the BAM Act review consultations found there were relatively widespread perceptions of non-compliance with the BAM Act's biosecurity provisions.

Additionally, there were widespread perceptions that the State took little action to enforce compliance and issue penalties. For penalties to be effective deterrents to non-compliance, they need to be sufficiently severe *and* people need to believe that there is a strong probability of being caught.

Encouraging compliance is important. People need to be aware of the laws, understand why they are needed, and know what they need to do to comply and how to do it.

What we need to achieve

The panel identified the following key outcomes to support compliance with WA's biosecurity laws:

- Activities to encourage compliance are underpinned by behavioural science and evaluation.
- Penalties under the BAM Act are appropriate to the offence and appropriately enforced.

Opportunities for reform

Stakeholders expect the State to deliver on its obligation to monitor compliance with the BAM Act and undertake enforcement activities in all circumstances of non-compliance. However, monitoring, surveillance, inspection and enforcement activities are costly. As the agency assisting the Minister for Agriculture and Food to administer the BAM Act, DPIRD's preferred course of action is to design activities that increase the number of people who are willing to do the right thing.

Education programs, industry guidance and information about the purpose of the rules and the penalties that apply if the rules are broken are important ways to encourage compliance with WA's biosecurity laws. However, providing information on its own is not

⁴⁶ For example, Managing the Impact of Plant and Animal Pests: Follow-up (Western Australian Auditor General's Report, Report 4: 2020-21, 31 August 2020)



enough to achieve effective compliance. Attention needs to be given to initiatives aimed at achieving the desired behaviour change. Increasingly, agencies with a regulatory role across Australia are investing in behaviour change research to help inform effective policies and strategies that can achieve the desired results.

Helping people do the right thing

Activities aimed at encouraging 'willing compliance' have been widely adopted by regulatory agencies as an integral part of their compliance and enforcement approach.

For example, an aim of the Compliance and Enforcement Policy of NSW's Department of Primary Industries is to *build a culture of voluntary compliance and empower licensees, stakeholders and other invested parties to be responsible for their actions.*

When individuals and businesses willingly comply with regulatory requirements, it can:

- reduce the need for regulatory agencies to undertake enforcement action
- increase trust between the regulator and regulated entity, and
- result in more effective regulation and better outcomes overall.

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Activities to encourage compliance need to be coupled with activities to discourage non-compliant behaviours – penalties, monitoring and enforcement. The BAM Act includes penalties for various offences. It also supports modified penalties to be issued via infringement notices.

Infringement notices are a type of enforcement action and are typically issued for minor offences or breaches of regulations. The recipient of the notice has the option to pay a specified fine (modified penalty) as an alternative to contesting the alleged offence in court. The alleged offender who pays an infringement notice is not admitting guilt and does not receive a conviction. Infringement notices allow quicker and more efficient enforcement without having to resort to more time-consuming, and costly, legal action.

Current penalties under the BAM Act

- Border biosecurity provisions support penalties ranging from \$10,000 to \$100,000, and imprisonment for 12 months for some offences.
- Compliance with the post-border biosecurity provisions is supported through penalties ranging from \$5,000 to \$100,000, and imprisonment for 12 months for some offences.
- The residue management provisions are supported by penalties of \$50,000.
- The adulteration provisions are supported by penalties of \$100,000 and 12 months imprisonment.
- The chemical safety provisions are supported by penalties of \$20,000 or \$50,000.
- Non-compliance with directions issued under the inspection provisions can result in penalties of \$20,000, and potential liability to pay for remedial action.
- Infringement notice amounts range from \$100 to \$2,000.

⁴⁷ <https://www.dpi.nsw.gov.au/biosecurity/managing-biosecurity/compliance>



Although stakeholders generally felt that the penalties under the BAM Act were adequate, a review of the penalties applied in other jurisdictions identified ways in which the adequacy of the BAM Act's penalties could be improved.

In general, the penalty regime under the BAM Act seems to provide for lower fines than other Australian jurisdictions, even when adjusted for inflation.

For instance, fines under the BAM Act would need to increase fourfold to be commensurate with most jurisdictions – although Victoria and the Commonwealth have fines of comparable value to WA.

There is also an argument that biosecurity penalties should be on par with those for environmental breaches. The penalties in NSW's *Biosecurity Act 2015* were modelled on environmental legislation and have some of the largest biosecurity penalties in Australia (up to \$2.2 million). As with breaches of environmental laws, the harm caused by biosecurity breaches can be extensive, long-lasting and difficult or impossible to reverse.

Penalties under contemporary legislation

An **aggravated offence** is an offence committed in particular circumstances set out in the legislation that make the offending more serious. If these circumstances are met, the offence attracts a more significant penalty to reflect the seriousness of the offence committed. This helps to ensure that the penalty is proportional to the harm caused and acts as an effective deterrent to future offences.

A **continuing offence** is a type of offence that involves a persistent or repeated violation of a law or regulation over an extended period. The penalties for continuing offences can be more severe than those for isolated violations, as the ongoing nature of the offence indicates a greater disregard for the law and a greater potential for harm (for example, a 'per day' financial penalty for each day that the offence occurs and creates harm). The BAM Act includes penalties for continuing offences.

Penalty units are an efficient way of expressing and updating the financial penalty associated with a regulatory offence. The penalty is expressed in terms of a specific number of penalty units, and the value of a penalty unit is pre-determined and can be reviewed and adjusted periodically to account for inflation or other changes in economic conditions. As an example, if the penalty is 10 penalty units, and the value of a penalty unit is \$100, then the total penalty for the offence would be \$1,000.

In relation to monitoring compliance and enforcement, under the BAM Act the DG of DPIRD has the authority to appoint inspectors. Inspectors can have the legal powers to enter, access, search, inspect, seize and sample, and to issue directions, notices, infringements and support prosecution when offences occur.⁴⁸

In practice, DPIRD takes a risk-based, outcome-focused approach to compliance and enforcement. This involves identifying and prioritising areas of regulatory risk based on the likelihood and potential impact of non-compliant behaviour.

⁴⁸ In addition to inspectors appointed by the DG under s 162 of the BAM Act, certain law enforcement personnel who have been given authority under other Acts (e.g. police officers, fisheries officers, wildlife officers) may exercise powers under the BAM Act as inspectors.



The relatively widespread stakeholder perceptions of non-compliance with the BAM Act and little monitoring or enforcement by DPIRD are mainly in relation to the landholder's duty to control widespread and established declared pests on their property. By their nature, these pests are the most likely to be visible in the landscape. Their occurrence on a property is often not sufficient to indicate that a landholder is not undertaking reasonable and appropriate levels of control, and the biosecurity risk is low (from a whole-of-state perspective).

It is a reality that these pests will need ongoing active landholder management to protect assets and suppress pest numbers. A balance needs to be struck to enable the State government to target its available resources to the areas of greatest regulatory risk, while also ensuring appropriate levels of monitoring and enforcement are undertaken.

For controlling widespread and established declared pests, local monitoring and enforcement may be more effective at achieving these outcomes. Local governments can, and do, create local laws for pest plants (i.e. weeds) under the BAM Act. The local laws enable local governments to undertake enforcement actions in relation to these weeds, using existing local government systems established under the *Local Government Act 1995*. However, the weeds the local law provisions apply to are restricted to weeds that are not declared pests under the BAM Act.

The panel considers it appropriate to expand local government's ability to create local laws for any widespread and established pest animal or plant, regardless of whether it is a declared pest under the BAM Act. This would enable local governments to monitor and enforce compliance when it is considered a priority by them to do so, and to support their community's pest management efforts.

This expansion of local government capacity would be consistent with, and supported under, the alternative model proposed for community-led pest management in Reform Area 8.

WA's risk-based, outcome-focused regulatory approach

DPIRD is the primary regulatory body for the BAM Act.

The [regulatory compliance approach](#) applied by DPIRD is risk-based and outcome-focused.

Risk-based approaches are considered best practice for regulatory compliance as they support a cost-effective approach to monitoring compliance, targeting available resources, and proactive, proportionate and appropriate responses.

Contemporary regulatory compliance approaches, including those used by DPIRD, involve a range of strategies and techniques to ensure compliance with laws and regulations.

These risk-based approaches involve proactive monitoring and enforcement, self-regulation and willing compliance, technology and data analytics, and collaboration and partnerships.

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⁴⁹ <https://www.wa.gov.au/system/files/2022-04/Regulatory%20Compliance%20Approach%202022.pdf>



Tell us what you think

Opportunity 17

Develop and implement initiatives to achieve behaviour/practice changes that support compliance with WA's biosecurity laws.

An ongoing program of biosecurity behaviour change research is necessary to inform these initiatives, and evaluation will be critical to ensuring that they are delivering outcomes.

Significant planning will be needed to identify and prioritise the behaviours/practices required to support compliance and develop the initiatives. A new body (see Reform Area 3) may play a role here.

Opportunity 18

Incorporate 'aggravated' offence considerations in the BAM Act to help ensure that the penalty is proportional to the harm caused.

Work will need to be undertaken to identify the circumstances that would make the offending more serious and, therefore, warrant it being an 'aggravated offence' – for example, if the offence was committed intentionally or recklessly.

Opportunity 19

Use penalty units in the BAM Act.

Using penalty units will ensure the monetary value of the penalty does not diminish over time, as it is much easier and more efficient to adjust the value of a penalty unit rather than amend the dollar amount in the legislation.

Opportunity 20

Increase the monetary value of penalties under the BAM Act, in line with the penalty framework used by environmental laws.

It is argued that the harm that is caused by violating biosecurity laws can be just as severe, long-lasting and irreversible as breaches of environmental laws.

Opportunity 21

Expand the scope of local government laws under the BAM Act to apply to any widespread and established pest animal or plant.

This will create an opportunity to make monitoring and enforcing compliance more visible at the local level. Coupled with appropriate penalties, it may reduce the incidence of non-compliance.

While it is recognised that a clearer definition of what qualifies as a 'widespread and established' pest is needed, the intent of this reform option should still be clear.



List of reform areas, key outcomes and opportunities

Reform Area 1. Clarifying the role of the BAM Act

Key outcomes

The panel has identified the following key outcomes for the Objects of the BAM Act; that the Act:

- has clear Objects, helping readers to successfully interpret and implement it
- anticipates increasing biosecurity and agriculture management risk and complexity, and
- strengthens WA's contribution to Australia's biosecurity system.

Opportunity 1

Clarify and simplify the legislative framework by defining 'biosecurity' to encompass the agriculture management outcomes currently provided for in the BAM Act, where it is reasonable to do so.

This would mean chemical products, residues on land, and the adulteration of agricultural products or feed would all be captured as 'biosecurity' for the purposes of the legislation.

Opportunity 2

Amend the objects of the BAM Act to:

- increase the Act's focus on providing for an effective biosecurity system
- be more descriptive of the contexts to which biosecurity applies under the Act, to align with the more contemporary legislation
- provide for a framework for minimising biosecurity risk and risk-based decision making, including when evidence is uncertain or lacking
- emphasise that biosecurity is everyone's responsibility for everyone's benefit
- refer to emergency preparedness and the effective management of biosecurity emergencies
- include reference to intergovernmental agreements
- provide for trade of WA's produce and products by ensuring it meets national and international biosecurity requirements.

Opportunity 3

Include a statement in the BAM Act that identifies the need to involve and engage all biosecurity system participants in its implementation, including Aboriginal peoples, the general public, communities, industries and local, state and federal government bodies.

Reform Area 2. Working together to protect WA

Key outcomes

The panel identified the following key outcomes for shared responsibility:

- Everyone contributes to WA's biosecurity by taking reasonable and practicable steps to reduce biosecurity risks and impacts that are under their control.



- Everyone understands the importance of biosecurity and the benefits it delivers to them and to WA as a whole.

Opportunity 4

Introduce a general biosecurity obligation in the BAM Act.

The general biosecurity obligation will require everyone to take reasonable and practicable measures to prevent, eliminate or minimise biosecurity risks and impacts that are under their control.

Opportunity 5

Improve biosecurity communications and engagement to ensure everyone understands what biosecurity is, how it benefits them, how they can contribute and the value of their participation.

To be effective, careful planning and implementation of tailored communication and support strategies is needed. This should be supported by a deep understanding of the target audiences and the factors that influence their behaviours.

Reform Area 3. Planning and reporting – vital to a better biosecurity system

Key outcomes

The panel has identified the following key outcomes for planning and reporting on WA's biosecurity system. These align with WA's commitment to the IGAB:

- Biosecurity investment prioritises the allocation of resources to the areas of greatest return, in terms of risk mitigation and return on investment.
- Biosecurity activities are undertaken according to a cost-effective, science-based and risk-managed approach.
- State and local governments contribute to the cost of risk management measures in proportion to the public good accruing from those measures, and their role in the system.
- All other biosecurity system participants contribute in proportion to the risks created and/or benefits gained.
- Biosecurity system participants are involved in planning and decision making according to their roles, responsibilities and contributions.
- Decisions that are made to further develop and operate WA's biosecurity system should be clear and, wherever possible, made publicly available.

Opportunity 6

Establish a formal body to provide strategic advice and leadership for WA's biosecurity system.

The body would operate with the support of the Department of Primary Industries and Regional Development.

It would be tasked with the following, to support WA's biosecurity system:

- provide strategic coordination for community, industry, local governments, and State government agencies to work together to manage biosecurity risks and impacts



- ensure coordinated biosecurity activities are undertaken according to a cost-effective, science-based and risk-managed approach
- ensure State government resources for biosecurity are prioritised to the areas of greatest return and public good.

The body would be required to:

- partner with other entities across community, industries and the regions
- involve other biosecurity system participants, according to their roles, responsibilities and contributions (in line with the IGAB principles).

The body would also be required to report on the implementation and effectiveness of the plans it establishes, and to publish its plans and reports.

Consistent with biosecurity principles established in the IGAB, it would be appropriate to undertake a co-design process to further develop the form and functions of the body.

This would include identifying:

- industry, community and government entities that could be formally represented on the body and how – aligning with the principle of shared responsibility
- other entities that could be involved, including the scale at which they should be represented and involved in planning activities for different aspects of the system, from local, regional to state level
- the specific expertise required for the body to act as a strategic leader of WA's biosecurity system and how that expertise is to be provided
- the role of the body in recommending or making decisions under the BAM Act
- the role of the body in identifying priorities and resource allocation, particularly funding to industry, community and local governments
- the role and function of the Biosecurity Council under this new structure, if any.

Reform Area 4. Prioritising pests, weeds and diseases

Key outcomes

The panel has identified the following key outcomes for the prioritisation of pests and diseases:

- Appropriate legislative controls, rigour and resources are applied to reduce and control the risk of and harm caused by pests and diseases.
- Biosecurity system participants, informed by the outcomes of WA's biosecurity prioritisation process, can more readily understand their biosecurity obligation and act on it.

Opportunity 7

Introduce the definition of 'biosecurity matter' into the BAM Act, and further classify it as either prohibited matter, restricted matter or permitted matter based on the risk presented to WA.

Although this is a fundamental shift and change to the regulation of biosecurity risks and impacts in WA, it is likely to provide a stronger foundation for WA's biosecurity system by:



- reducing administrative burden as risk may be assessed for classes of things, rather than individual organisms
- simplifying the framework, making it easier to understand, explain, deliver and comply with
- helping focus the attention and resources of biosecurity system participants on the areas that are most relevant to them, and
- supporting harmonisation of legislation across jurisdictions.

Significant planning and discussion would need to occur to establish this new framework. Consistent with biosecurity principles established in the IGAB, it would be appropriate to involve relevant biosecurity system participants in this process. A new body (see Reform Area 3) may play a role here.

Reform Area 5. Emergency powers – a necessary precaution

Key outcomes

The panel has identified the following key outcome for emergency response powers:

- The WA government can undertake quick and decisive action to prevent or control a pest or disease that has or may have such a significant impact that it warrants the use of emergency powers.

Opportunity 8

Include formal emergency provisions in the BAM Act that can be applied to all biosecurity contexts.

This will ensure quick and decisive action can be taken in the event of a biosecurity emergency, and establish the primacy of the BAM Act during a declared biosecurity emergency.

Careful consideration will be needed to ensure emergency provisions can only be activated in limited circumstances and the actions to be taken are not more difficult or demanding than they need to be.

Opportunity 9

Ensure the BAM Act is positioned to be the primary Act for biosecurity, including biosecurity emergency responses in WA (excluding biosecurity responses relating to diseases that affect only human health).

This will require the BAM Act to have provisions that meet or exceed the powers that are established in other biosecurity legislation such as the *Biosecurity Act 2015 (Cth)*, *Aquatic Resources Management Act 2016*, *Biodiversity Conservation Act 2016*, *Exotic Diseases of Animals Act 1993*, and the *Public Health Act 2016*.



Reform Area 6. Compensation can boost biosecurity efforts

Key outcomes

Compensation and reimbursement are viewed as a critical gap in the BAM Act. The panel has identified the following key outcome:

- Individuals/businesses are fairly compensated or reimbursed for direct losses⁵⁰, costs and expenses when destructive action is required, using the powers of the BAM Act, to address a high-priority biosecurity risk.

Opportunity 10

Include appropriate compensation and reimbursement provisions in the BAM Act.

These are to cover direct loss or damage to plants, animals and property, and the costs/expenses incurred, because of destructive actions undertaken using the powers of the BAM Act during a biosecurity incident or emergency.

The provisions must exclude payments relating to indirect and consequential losses.

Consistent with biosecurity principles established in the IGAB, it would be appropriate to undertake a co-design process to further develop any compensation or reimbursement provisions.

This would include identifying and agreeing on the details of any legislated compensation and reimbursement provisions (who is/isn't eligible, how amounts are calculated, how applications are made, dispute processes etc.).

Reform Area 7. Enabling industries to act

Key outcomes

The panel identified the following key outcome:

- WA industries can access and take advantage of legislated support structures to establish and deliver collective and coordinated biosecurity actions for their priority pests and diseases.

Opportunity 11

Ensure third parties can be authorised to deliver accreditation schemes with industry.

This will support more efficient import/export of products and deliver biosecurity and product integrity outcomes for industry.

Authorisation to deliver a third party accreditation scheme would need to involve a robust state-based audit of the authorised third party businesses, supported by significant penalties to discourage non-compliance.

⁵⁰ Does not include consequential losses



Opportunity 12

Introduce industry-government biosecurity response agreements at a state level to formalise roles and responsibilities, including cost-sharing, during a biosecurity response relevant to industry.

This will encourage industry to consider how it can use the legislated mechanisms/tools that are available to support collective and coordinated biosecurity action (e.g. industry funding schemes under the BAM Act; and fee-for-service under the *Agricultural Produce Commission Act 1988*).

The response agreements would only be in relation to pests and diseases that are not covered by national biosecurity response arrangements and could also address compensation (see Reform Area 6).

The response agreements should provide a pathway for the State government to cover the upfront costs of a response, with provisions for industry to repay its share, similar to the national biosecurity response arrangements.

Significant planning and discussion would need to occur between industry and government to identify and agree on which pests and diseases warrant a formal agreement (underpinned by science/evidence), the cost-sharing arrangements, the mechanism to raise funds from industry, and what would happen if an arrangement were not put in place. A new body (see Reform Area 3) may play a role here.

Reform Area 8. Community-led pest management

Key outcomes

The panel has identified the following key outcomes for enabling community-led pest management:

- Local communities, networks and groups are supported to lead and undertake coordinated action to manage the impact of widespread and established pests on assets important to them, their region and the state as a whole.
- Action undertaken by local communities, networks and groups is effective and efficient, and contributes to the management of priority pests locally, regionally and for the state.

Opportunity 13

Simplify the rating approach and broaden the revenue base of the Declared Pest Rate (DPR) model through a uniform (where possible) progressive *ad valorem* rating structure applied to land across WA that has significant ongoing land management requirements (including pest control).

This would appropriately target landholders who would primarily benefit from coordinated community pest management efforts.

Under this simplification, a DPR would be applied across WA to freehold or leasehold rural land classes of sufficient size.

In this context, this would include land of a minimum size (e.g. one, five or 10 hectares) with rural characteristics such as agricultural and pastoral properties, privately-owned conservation land, market gardens, vineyards and rural lifestyle properties.



Opportunity 14

Retain the State government legislated dollar-for-dollar matching of funds raised through a DPR.

This recognises the significant public land estate and public benefit from a coordinated community-led approach.

Opportunity 15

Within the planning (and reporting) framework and arrangements for managing widespread and established pests, apportion pooled DPR/ matched funds to:

- local/regional coordination (base level of funding to coordinate pest management activities)
- priority pest management projects and programs (funding for short and longer-term pest management projects and programs, at appropriate scales)
- compliance programs (costs involved for state or local government to deliver targeted compliance activities to support priority pest management programs)
- administer the funding scheme
- audit and acquittal processes for the funding received.

Opportunity 16

Broaden the range of pest management entities that are eligible to receive pooled DPR/ matched funds, and incentivise co-contributions from funding recipients.

Reform Area 9. Compliance with WA's biosecurity laws

Key outcomes

The panel identified the following key outcomes to support compliance with WA's biosecurity laws:

- Activities to encourage compliance are underpinned by behavioural science and evaluation.
- Penalties under the BAM Act are appropriate to the offence and appropriately enforced.

Opportunity 17

Develop and implement initiatives to achieve behaviour/practice changes that support compliance with WA's biosecurity laws.

An ongoing program of biosecurity behaviour change research is necessary to inform these initiatives, and evaluation will be critical to ensuring that they are delivering outcomes.

Significant planning will be needed to identify and prioritise the behaviours/practices required to support compliance and develop the initiatives. A new body (see Reform Area 3) may play a role here.

Opportunity 18

Incorporate 'aggravated' offence considerations in the BAM Act to help ensure that the penalty is proportional to the harm caused.



Work will need to be undertaken to identify the circumstances that would make the offending more serious and, therefore, warrant it being an 'aggravated offence' – for example, if the offence were committed intentionally or recklessly.

Opportunity 19

Use penalty units in the BAM Act.

Using penalty units will ensure the monetary value of the penalty does not diminish over time, as it is much easier and more efficient to adjust the value of a penalty unit rather than amend the dollar amount in the legislation.

Opportunity 20

Increase the monetary value of penalties under the BAM Act, in line with the penalty framework used by environmental laws.

It is argued that the harm that is caused by violating biosecurity laws can be just as severe, long-lasting and irreversible as breaches of environmental laws.

Opportunity 21

Expand the scope of local government local laws under the BAM Act to apply to any widespread and established pest animal or plant.

This will create an opportunity to make monitoring and enforcing compliance more visible at the local level. Coupled with appropriate penalties, it may reduce the incidence of non-compliance.

While it is recognised that a clearer definition of what qualifies as a 'widespread and established' pest is needed, the intent of this reform option should still be clear.



Glossary

Term	Definition
<i>ad valorem</i>	According to the value
Assets	Property (real or personal) owned by a person or the government
Assurance certificate	An assurance certificate is a certificate given by a person (authorised under an accreditation), in relation to an animal, agricultural product, potential carrier, animal feed or fertiliser, for the purpose of export or movement, that states that the certified thing is of a particular quality, produced or treated in a particular manner, free from a particular thing.
Biosecurity	The management of risks to the economy, the environment and the community, of pests and diseases entering, emerging, establishing or spreading. Intergovernmental Agreement on Biosecurity (2019)
Biosecurity emergency	The occurrence or imminent occurrence of a biosecurity hazard that is of such a nature or magnitude that it requires an urgent and coordinated response including the activation of the State Hazard Plan Animal and Plant Biosecurity, if appropriate
Biosecurity incident	The occurrence or imminent occurrence of a biosecurity hazard that requires a coordinated response and the implementation of Incident Management System principles
Biosecurity system	Government and non-government structures, processes, and activities to manage risks to the economy, the environment and the community, of pests and diseases entering, emerging, establishing or spreading
Biosecurity system participants	Individuals, governments, entities, industries and other stakeholders that participate in biosecurity and agriculture management related activities
Caring for Country	A process by which Aboriginal and Torres Strait Islander people describe, connect, manage and perform their customary obligations to that Country, their kin and ancestors for present and future generations. Australia State of the Environment (2021)
Co-design	An inclusive method of designing fit-for-purpose programs, policies or services: <ul style="list-style-type: none"> • that brings citizens and stakeholders together and • where decision making is based on the experience of experts and on consensus of the group. Victorian Government (2020) https://www.vic.gov.au/co-design
Compensation	A means of recognising, through payment, damage or loss caused
Consequential loss	An indirect or flow-on consequence of damage or loss, for example, unrealised earnings stemming from the closure of a business, lost time or productivity
Contemporary biosecurity legislation	Consolidated biosecurity legislation that was introduced in Australia after the BAM Act was enacted including <i>Biosecurity Act 2014</i> (Qld), <i>Biosecurity Act 2015</i> (NSW), and <i>Biosecurity Act 2019</i> (Tasmania)



Term	Definition
Declared pest	a) a prohibited organism under the BAM Act; or b) an organism for which a declaration under section 22(2) of the BAM Act is in force
Emergency management	Management of the adverse effects of an emergency including — <ol style="list-style-type: none"> a. prevention — the mitigation or prevention of the probability of the occurrence of, and the potential adverse effects of, an emergency; and b. preparedness — preparation for response to an emergency; and c. response — the combating of the effects of an emergency, provision of emergency assistance for casualties, reduction of further damage, and help to speed recovery; and d. recovery — the support of emergency affected communities in the reconstruction and restoration of physical infrastructure, the environment and community, psychosocial and economic wellbeing
Emergency pest or disease	Pests and diseases that are: <ol style="list-style-type: none"> a. exotic to Australia and it is considered to be in the national interest to be free of the pest/disease; or b. a variant of an endemic pest or disease (that can be distinguished by investigative and diagnostic methods) which if established in Australia, would have a national impact; or c. a serious pest or disease of unknown or uncertain cause; or d. a severe outbreak of a known endemic pest or disease, and that is considered to be of national significance with serious social or trade implications. <p>Intergovernmental Agreement on Biosecurity (2012)</p>
Environmental biosecurity	The protection of the environment and/or social amenity from the risks and negative effects of pests and diseases entering, emerging, establishing or spreading. <p>Priorities for Australia's biosecurity system (2018)</p>
Inspector (under the BAM Act)	<ol style="list-style-type: none"> a. in relation to the identification or movement of stock — an inspector appointed under section 162 (of the BAM Act) or a police officer; and b. in relation to fish — an inspector appointed under section 162, a fisheries officer or an inspector appointed under the Pearling Act 1990 section 35(1); and c. in relation to a declared pest other than fish — an inspector appointed under section 162 or a wildlife officer; and d. in relation to anything else — an inspector appointed under section 162 <p>BAM Act 2007</p>
Permitted organism	An organism for which a declaration is in force under section 11 of the BAM Act
Pest	In the context of the discussion paper, invertebrate and vertebrate pests (excluding humans) and weeds
Prohibited organism	An organism for which a declaration is in force under section 12 of the BAM Act



Term	Definition
Public good	Public good is defined as having two important characteristics: <ul style="list-style-type: none">• non-excludable - the use of the good by one person does not preclude anyone else from using the good• and non-rival - the use of one good by one person does not diminish the utility of another person consuming the good
Quality assurance scheme	A scheme relating to animals, agricultural products, potential carriers, animal feed or fertilisers that is designed to assure that the animals, plants, agricultural products, potential carriers, animal feed or fertilisers — <ol style="list-style-type: none">a. are of a particular quality or grade; orb. are in a particular condition; orc. were produced in a particular area or place; ord. were produced in a particular manner; ore. have been treated in a particular way; orf. are free from a particular organism, chemical residue, contaminant or adulterant; org. comply with particular conditions or requirements BAM Act 2007
Recognised biosecurity group (RBG)	A community-based independent association recognised by the minister under section 169 of the BAM Act
Reimbursement	Payment to a person, under specific circumstances, to cover money spent or costs incurred from a biosecurity incident or emergency response
Stakeholders	In this paper, refers to individuals and organisations with an interest in the BAM Act review
Widespread and established pests and diseases	A pest or disease that is perpetuated, for the foreseeable future, within its ecological range in an area and where it is not feasible (whether in terms of technical feasibility or a cost-benefit analysis) to eradicate the pest or disease Adapted from Intergovernmental Agreement on Biosecurity (2019)
Unlisted organism	The term for an organism that is not a permitted organism or a declared pest under the BAM Act
Willing compliance	The regulated community willingly comply with the rules because they understand them, see the benefit and/or are influenced by the regulator Adapted from Australian Maritime Safety Authority Compliance Strategy 2018-2022