



Department of
Primary Industries and
Regional Development

Protect
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Innovate

Western Australian Government response

Review of the *Biosecurity and Agriculture
Management Act 2007*



Introduction

The *Biosecurity and Agriculture Management Act 2007* (BAM Act) is the state's primary legislation for managing the risks and impacts of biosecurity threats to Western Australia's (WA's) economy, environment and community. It also plays a vital role in ensuring the integrity of WA's agricultural, forestry, seafood and aquaculture products. The BAM Act supports WA's reputation as a reliable supplier of premium products that are free from pests, diseases, chemical residues and other contaminants.

Section 194 of the BAM Act requires that the Act be reviewed, as soon as practicable, every 10 years from its commencement. The BAM Act became fully operational in 2013.

On 28 February 2022, an independent panel was appointed to review the Act's operation and effectiveness and the adequacy of the penalties imposed under it. The review also considered the role and effectiveness of the declared pest rate-recognised biosecurity group funding model, enabled by the Act.

The panel undertook a comprehensive 3-stage review process over 18 months, including significant stakeholder engagement. The review concluded that, although the BAM Act has provided a solid foundation for WA's biosecurity, reform is required given the growing pressures on the system and advances in biosecurity legislation across Australia.

Thirty-three panel recommendations were made to strengthen WA's biosecurity system, noting the significant legislative and policy changes required to implement them.

This document presents the WA Government response to the review. It begins with the government's overall approach to reform, followed by a summary of the key findings from the review and the government response to the recommendations made.

Three categories are used to describe the response to each recommendation:

- **Supported** – the WA Government agrees with the recommendation and will work towards developing and implementing an initiative and/or regulatory proposal.
- **Supported in principle** – the WA Government agrees with the intent of the recommendation and considers that further work and/or consultation is needed to determine the best way to respond to it.
- **Noted** – the WA Government notes the recommendation but cannot commit to taking action in line with the recommendation at this point in time.

The WA Government thanks the independent panel for its efforts in reviewing the BAM Act and welcomes its report and findings.

Strengthening WA's biosecurity system

The WA Government recognises the need to strengthen the state's biosecurity system to better respond to increasing risks and impacts. It has also identified that biosecurity programs and services will need to be better targeted at the highest consequence threats and issues for WA as a whole.

Of the 33 review recommendations, the WA Government fully supports 8, supports 16 in principle, and notes 9 recommendations.

A long-term program to reform WA's biosecurity system will be developed and coordinated by the Department of Primary Industries and Regional Development (DPIRD). This will be a complex program of reform that will be staged over an extended period of over a number of years.

As part of the program, further work will be undertaken to better understand the implications and feasibility of the recommendations, many of which could potentially require a new biosecurity Act. Consideration will be given to whether similar outcomes can be achieved without making fundamental changes to the legislation.

The approach will be consultative, recognising that strong and sustainable biosecurity outcomes depend on shared understanding and collective responsibility for action. Through government, industry and communities working together, we can build a stronger, more resilient biosecurity system that will protect our economy, environment and communities for years to come.

Foundations

A modern biosecurity act

The review identified significant progress in biosecurity legislation across Australia since the BAM Act was introduced, and recommended WA build on this to adopt modern legislative objects, concepts and terms for the regulation of biosecurity. The review concluded that this would help ensure WA has biosecurity legislation that:

- *has a clear purpose and objects that incorporate nationally recognised principles and help readers to successfully understand and use the Act*
- *is positioned to respond to increasing biosecurity risk and complexity*
- *strengthens WA's contribution to Australia's biosecurity system.*

(BAM Act Review p. 29)

Review recommendations and response

#	Recommendation	Response
1	Change the title of the <i>Biosecurity and Agriculture Management Act 2007</i> to the 'biosecurity act', removing the reference to agriculture management and making clear the legislation's scope extends beyond agriculture	Supported
2	Align the reformed biosecurity act's purpose and objects with nationally agreed principles for biosecurity and set out what it is intended to achieve, modernising the legislation and making its intent clearer to system participants	Supported
3	Adopt defined terms and concepts for biosecurity matter, dealing, event, impact, risk, emergency and carrier that align with the national biosecurity system, aiming to harmonise approaches across state borders and facilitate compliance through a consistent framework	Supported
4	Structure the reformed biosecurity act so that its regulatory framework aligns with principles and key concepts that guide biosecurity across Australia, making it easier for stakeholders and administrators to understand, comply with and implement	Supported in principle
5	Progress the amendments to the BAM Act listed in Attachment 1 [to the BAM Act review] to make the BAM Act more workable and better able to support WA's biosecurity system while the more substantial legislative reforms recommended in this report are progressed	Supported in principle
6	Finalise the repeal of the <i>Agriculture and Related Resources Protection Act 1976</i> and its subsidiary legislation, which was one of the 17 Acts intended to be fully superseded by the BAM Act	Supported

Response comment

The WA Government agrees with the intent of working towards consistency in biosecurity legislation across Australia where practical and appropriate to do so, while also protecting the unique biosecurity status and needs of each state and territory. The government also sees benefit in working towards greater recognition of the importance of biosecurity to the broader economy, environment and community alongside its critical importance to primary industries, particularly agriculture, forestry and food production.

If implemented, review recommendations 1-4 could lead to significant changes in the state's biosecurity legislation, potentially requiring the development of a new Act. This would be a longer-term process, expected to take more than 5 years to complete, with further work and consultation necessary.

This would include consideration of how best to regulate, resource, and operationalise biosecurity as a whole-of-government endeavour, with coherence across multiple acts and agencies to avoid duplication or gaps.

Recommendation 5 is supported in principle and 6 is supported, noting that further work is needed to determine how these are best progressed alongside the overall reform program. This will ensure that any targeted amendments to the BAM Act, which are critical to its current operation, are prioritised and actioned while more comprehensive reforms are progressed.

Shared responsibility

The review identified that the principle of shared responsibility is widely accepted in Australia and acknowledged by biosecurity stakeholders. To strengthen this, the review recommended improving biosecurity-related communications and engagement and introducing a general biosecurity obligation. The review considered that this would support greater participation by:

- *increasing understanding of the importance of biosecurity and the benefits it delivers to [the wider community] and to WA as a whole*
- *requiring everyone to take reasonable and practicable steps to reduce biosecurity risks and impacts.*

(BAM Act Review p 37)

Review recommendations and response

#	Recommendation	Response
7	Improve biosecurity communications and engagement to enhance everyone's understanding of what biosecurity is, how it benefits them, how they can contribute and the value of their participation	Supported
8	Include a statement in the reformed biosecurity act that the act is to be administered, where feasible, in consultation with the general public, communities, Aboriginal peoples, industries, and local, state and Australian government bodies, to reinforce the importance of consultation and engagement	Supported in principle

#	Recommendation	Response
9	Introduce a general biosecurity obligation into the reformed biosecurity act requiring individuals and organisations to take reasonable and practicable measures to prevent, eliminate or minimise biosecurity risks and impacts when dealing with biosecurity matter	Supported in principle

Response comment

The WA Government agrees that strengthening communication and engagement with the general community (recommendation 7) is important to enhance awareness and understanding of biosecurity – what it is, how people can contribute, and the benefits of doing so.

While further work is needed to assess the feasibility of including a consultation statement in legislation (recommendation 8), the WA Government can commence integrating the intent of this recommendation into new biosecurity policies and plans.

Introducing a general biosecurity obligation (recommendation 9) is a more significant legislative change that could potentially require a new Act. Further work and consultation are necessary.

Powers

Biosecurity matter

The review found that WA needs a new approach to regulating biosecurity risks and impacts that is better targeted and easier to understand. It recommended a new regulatory framework based on dealings with 'biosecurity matter' to enhance the effectiveness of the state's biosecurity system. Different regulatory strategies are recommended for managing state and national-level biosecurity risks and reducing the impact of established pests and diseases. The review concluded that this would ensure:

- *appropriate regulatory controls for risks and impacts*
- *system participants who understand how and why biosecurity risks and impacts are managed using certain regulatory strategies, and what their obligations are.*

(BAM Act Review p 45)

Review recommendations and response

#	Recommendation	Response
10	Regulate dealings with biosecurity matter as a more practical regulatory construct to underpin WA's biosecurity legislation into the future	Supported in principle
11	Target the use of declarations of biosecurity matter under the reformed biosecurity act to achieve an appropriate level of protection, ensuring that controls are proportionate to the risk and potential impact	Supported in principle
12	Regulate established pests and diseases using the general biosecurity obligation and subsidiary legislation when necessary, to support regulation that is flexible and appropriate to the impact presented	Supported in principle
13	Develop a policy statement to provide strategic direction and guide decisions on WA's regulatory approach for specific biosecurity matter, ensuring transparency and consistency	Supported

Response comment

The WA Government agrees there is a need to better differentiate between the regulation of state and national-level biosecurity risks and the management of established pests and disease impacts. It also agrees that regulation of biosecurity risks and impacts could be easier to understand.

The government acknowledges that stakeholders will be interested in how different types of biosecurity risks and impacts could be regulated, how this might be put into practice and what it could mean to them, and that further consultation will be required.

Recommendations 10-12 build on earlier panel recommendations to adopt modern regulatory concepts (recommendation 3) and to introduce a general biosecurity obligation (recommendation 9). They also potentially require a new Act, with further work and consultation therefore necessary.

The development of a policy statement to provide strategic direction and guide decisions (recommendation 13) will provide an important first step towards improving how biosecurity risks and impacts are regulated in WA.

Biosecurity emergency response

The review recommended new powers to enable more decisive action in biosecurity emergencies, equivalent to those available under modern biosecurity acts elsewhere in Australia. It also made a recommendation on inclusion of compensation and reimbursement.

The review concluded that this would ensure that the state government:

- *can take rapid and decisive action to manage serious pest and disease incursions*
- *has clear authority to pay compensation or reimbursement for direct losses incurred due to actions taken under the reformed biosecurity act during a biosecurity emergency.*

(BAM Act Review p 53)

Review recommendations and response

#	Recommendation	Response
14	Include biosecurity emergency provisions in the reformed biosecurity act, requiring the declaration of a biosecurity emergency to activate special powers	Supported in principle
15	Include authority for compensation and reimbursement to be paid under certain circumstances for direct losses incurred when destructive biosecurity measures are taken or ordered by the WA Government under the reformed biosecurity act	Noted

Response comment

Pests and diseases have the potential to spread rapidly and have devastating consequences for the economy, environment and/or community if not managed effectively. It is important that WA's biosecurity legislation enables the state government to take appropriate and decisive actions to effectively respond to new incursions of pests and diseases. These actions are necessary to contain, manage and/or eradicate threats that could have a significant impact if left unchecked.

In progressing recommendation 14, it will be important to ensure there is a hierarchy of powers with other WA legislation that is appropriate to the potential impact of a biosecurity emergency. Any new provisions for biosecurity emergencies would need to work within, and complement, the *Emergency Management Act 2005* and the State Emergency Management Framework.

Further work is required to understand the implications, feasibility and costs of implementing recommendation 15 (compensation and reimbursement). This includes its interaction with other compensatory mechanisms and associated budgetary considerations.

Compliance, enforcement and local laws

The review highlighted stakeholder concerns regarding non-compliance with the BAM Act and the level of monitoring and enforcement efforts. It proposed strengthening compliance by targeting and tailoring actions to help people do the right thing. In addition, the review suggested non-compliance could be more effectively deterred by enhancing the visibility of monitoring and enforcement activities, ensuring these activities are underpinned by appropriate powers (including through local laws), and aligning penalties with the severity of the offence.

The review concluded that these reforms would ensure:

- *initiatives to encourage compliance are underpinned by behavioural science*
- *penalties match the offence and are appropriately enforced*
- *local governments can regulate established pests and diseases that are a local community priority.*

(BAM Act Review p 59)

Review recommendations and response

#	Recommendation	Response
16	Use behavioural science to better understand the values and views of system participants and inform an expanded program of initiatives that encourage compliance with WA's biosecurity legislation	Supported
17	Consider expanding the use of regulatory personnel authorised under other legislation as BAM Act inspectors to bolster the on-ground presence of monitoring and enforcement	Supported
18	Include in the reformed biosecurity act a suite of inspector powers and tools that support the enforcement of modern biosecurity concepts including the general biosecurity obligation and requirements relating to dealings with biosecurity matter	Supported in principle
19	Align the value of penalties in the reformed biosecurity act with the value of penalties in modern biosecurity legislation and WA environmental legislation to ensure the penalty is proportional to the harm caused	Supported in principle
20	Incorporate aggravated offence considerations in the reformed biosecurity act to reflect the seriousness of the action	Supported in principle
21	Use penalty units in the reformed biosecurity act as a versatile tool for setting and adjusting the value of penalties to account for inflation or changes in the economy	Supported in principle
22	Expand the scope of the provisions that enable local governments to make local laws to include established diseases, pest animals and plant pests	Noted

Response comment

The WA Government recognises that more can be done to encourage compliance and deter non-compliance.

Further work is required to identify specific strategies for enhancing compliance (recommendation 16) in parallel with communications and engagement improvements (recommendation 7), and to evaluate potential resourcing needs.

The WA Government will consider expanding the use of regulatory personnel authorised under other legislation as BAM Act inspectors (recommendation 17). Any such deployment needs to be targeted to achieve specific regulatory objectives, and this will be progressed on a case-by-case basis when justified and supported by partner agencies.

The intent of recommendations 18-20 (relating to inspector powers, value of penalties and aggravated offences) is supported in principle. These recommendations build on and interact with previous recommendations to:

- adopt modern legislative regulatory concepts (recommendation 3)
- introduce a general biosecurity obligation (recommendation 9)
- regulate dealings with biosecurity matter (recommendation 10)
- regulate established pests and diseases using the general biosecurity obligation (recommendation 12).

It will be necessary to determine through ongoing consultation the preferred course of action for these foundational recommendations before progressing this work to ensure enforcement and local laws implications are properly understood and assessed.

Recommendation 21 to introduce a penalty unit for biosecurity is supported in principle and is to be considered within the broader context of how WA approaches penalties across its statutes.

Certification

The review identified that authorising third parties to deliver accreditation schemes would improve efficiencies in the biosecurity certification process, helping it keep pace with growing industry and customer demand. The review suggested that including such provisions would:

- *support industry to efficiently provide assurance of compliance with import and export requirements.*

(BAM Act Review p 67)

Review recommendations and response

#	Recommendation	Response
23	Authorise third parties to deliver biosecurity accreditation schemes under robust oversight, and align certification regulations with the standard set in modern biosecurity legislation	Supported in principle

Response comment

WA is known for its safe, high-quality, pest-free agricultural products and certification can play a role in verifying and maintaining this reputation. The WA Government agrees that third party accreditation schemes could make a valuable contribution to WA's biosecurity system.

Further work is required to understand the costs and benefits to industry associated with participating in third party accreditation schemes under the Act, as well as the administrative costs to the State. The WA Government agrees that strong oversight is essential to ensure the credibility and reliability of certificates issued by persons accredited through a third-party and to protect WA's well-earned reputation.

Enabling

Industry

The review found that the funding schemes to support industry biosecurity efforts under the Act were appropriate and effective. It also identified an opportunity to further engage industries in maintaining their biosecurity status through state-level industry-government response agreements that provide a clear framework for responding to pest or disease incursions that primarily impact them.

The review concluded that this would ensure:

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

(BAM Act Review p 73)

Review recommendations and response

#	Recommendation	Response
24	In consultation with industry, develop a whole-of-system biosecurity policy, framework and legal instruments for the introduction of industry-government biosecurity response agreements at a state level	Supported in principle

Response comment

The WA Government recognises the need for an expansion of governance systems that enable industry to collectively fund biosecurity efforts, where industry sees a benefit in doing so. Further work and engagement with industry is required to determine the approach that will best meet industry needs.

While there are existing legislative mechanisms that enable industries to raise funds for biosecurity purposes (industry funding schemes under the BAM Act and fee-for-service under the *Agricultural Produce Commission Act 1988*), WA's industries are diverse in their structures, coordination and financial capacity. These differences will need to be taken into consideration and participation driven by industry.

It will also be important to clarify the role of industry funding in biosecurity programs delivered by the state government that primarily benefit industry. Any use of industry-raised funds must continue to deliver clear benefits to industry, complementing but not replacing state government funding of its core biosecurity programs and services.

Coordinated established pest management

The review concluded that WA's biosecurity system needs a more strategic, robust and accountable process to plan, prioritise and allocate public funding toward the coordinated management of established pests. It identified the state government as being best placed to lead an improved process that supports greater participation and collaboration in coordinated established pest management beyond existing recognised biosecurity groups.

The review found that this would contribute toward ensuring that WA has:

- *concentration of effort on established pest management regionally and at a landscape scale*
- *collaboration between different entities involved in pest management activities, informed by local and cultural knowledge and scientific evidence*
- *risk-based decision making, and greater transparency and good governance in funding administration*
- *innovation in pest management activities with cost-effectiveness and targeted pest management outcomes improving over time.*

(BAM Act Review p 77)

Review recommendations and response

#	Recommendation	Response
25	Establish pest management regions under the reformed biosecurity act, that are prescribed in regulation, and with a requirement for each pest management region to have a minister-approved pest management plan	Noted
26	Allocate pest management rate and matched WA Government funds (currently known as Declared Pest Account or declared pest rate funds) raised from a pest management region to carrying out that region's approved pest management plan	Noted
27	Establish clear funding and eligibility requirements, processes and guidelines that support the regional allocation of pest management rate and matched WA Government funds (currently known as Declared Pest Account or declared pest rate funds) through a competitive process and multi-year funding agreements	Noted
28	The WA Government leads the allocation of pest management rate and matched funds (currently known as Declared Pest Account or declared pest rate funds) preferably through a central body such as the biosecurity planning committee, to support a robust, transparent and independent process	Noted

Response comments

It is acknowledged that the current approach for managing established pests through recognised biosecurity groups would benefit from reform to better support WA's biosecurity system. Whilst the WA Government agrees with the intent of recommendations 25-28 to improve the planning, prioritisation and allocation of public funding for coordinated established pest management across the state, significantly more consultation is required.

A model based on pest management regions and plans has merit, with the potential to better support landscape-scale pest management and address local, regional and state pest priorities. However, further work and consultation are required to understand the implications and feasibility of implementing the recommendations before the government can determine if this is the best way to achieve these outcomes.

The WA Government notes that recognised biosecurity groups (RBGs) are currently the sole beneficiaries of Declared Pest Account (DPA) funds (combined declared pest rate and WA Government matched funds). Approximately \$7.3 million in new DPA funds is expected to be raised in 2025/26, and these groups are largely reliant on these funds for their operations. RBGs undertake important pest management work in their local communities, and it is appropriate to continue to provide them with funding stability while the future of the current model is determined, and through any subsequent transition to a new model.

Funding established pest management

The review identified that the legislated ability to rate landholders and ensure government matching of the revenue raised should be retained. It was found to provide an important and stable funding source for community-coordinated established pest management. However, the review also concluded that the rate in its current form is impractical and inefficient to maintain.

The review concluded that this would help ensure that WA has:

- *a dedicated and ongoing funding source for established pest management activities across the state*
- *a simple and efficient funding system that supports equitable cost-sharing arrangements between system participants.*

(BAM Act Review p 91)

Review recommendations and response

#	Recommendation	Response
29	Rename the declared pest rate to a pest management rate and apply it consistently across the state to pastoral and diversification leasehold land, and rural and urban farming freehold land in a way that targets landholders with significant pest management requirements who primarily benefit from funded coordinated pest management activities	Noted

#	Recommendation	Response
30	Consider implementing a simplified and standardised rating structure for the pest management rate that: • applies a progressive <i>ad valorem</i> (cents in the dollar) rate that increases commensurate with the total unimproved value of the land held by an individual entity • uses Land IDs as the basis for assessing the value of landholdings owned by an individual entity rather than Valuation Entity Numbers • applies a minimum flat rate and a capped maximum rate per individual entity	Noted

Response comment

The WA Government agrees that the current declared pest rate system is not efficient or sustainable and requires reform if it is to be retained long term.

Economic analysis and impact assessment of different funding approaches will be required when considering any future funding model.

The declared pest rate will continue to be raised in its current form until the government has considered alternative approaches for funding established pest management.

Transformation

Whole-of-state biosecurity system planning

The review found that institutional arrangements for system-level biosecurity planning need to be improved. It recommended that a biosecurity planning committee be established, concluding that this would help to ensure:

- *a strategic, risk-based, system-wide approach to biosecurity planning and coordination*
- *government resource allocation is prioritised based on risk and the cost-effectiveness of mitigation, informed by science and stakeholder input*
- *state government agencies and local governments contribute to biosecurity risk and impact management in proportion to public good, and all other system participants contribute in proportion to the risks created and/or benefits gained*
- *system participants are engaged in biosecurity planning and decision making.*

(BAM Act Review p 101)

The review also recommended that public authorities be required to report on the biosecurity measures they have implemented and disclose any formal directions they receive.

Review recommendations and response

#	Recommendation	Response
31	Establish a biosecurity planning committee under the reformed biosecurity act to provide strategic leadership and initiate whole-of-system planning, coordination and governance of WA's biosecurity system	Supported in principle
32	Replace the provisions of section 186 of the BAM Act with a requirement for public authorities to include a compliance statement as part of their own annual reporting that reports on biosecurity measures taken and discloses any directions issued to it	Noted

Response comment

The WA Government agrees that the biosecurity system needs stronger and more effective arrangements to prioritise, plan and coordinate biosecurity efforts across diverse contexts, industries, communities and environments. With increasing risks and pressures on the system, this is becoming even more critical to ensuring WA is positioned to effectively guard against the most serious of biosecurity threats and impacts.

Further work is needed to determine if a statutory entity, in the form of a biosecurity planning committee (BPC), is the most appropriate way to achieve this. The approach would need to be able to effectively navigate diverse, and sometimes conflicting, priorities across stakeholders and instil confidence in the system.

The interaction of a potential BPC with other recommendations will also need consideration, including the recommendations to:

- develop a policy statement for WA's regulatory approach to *biosecurity matter* (recommendation 13)
- introduce industry-government biosecurity response agreements at a state level (recommendation 24)
- improve coordination and funding of established pest management (recommendations 25-30).

Further work is needed to determine how a statutory requirement for public authorities to report on their own biosecurity compliance (recommendation 32) could work in practice, including which types of public authorities may be required to report and any impacts such a requirement could have.

A decade of transformation

The review identified that the biosecurity system needs more than legislative reform to protect WA from biosecurity risks and impacts into the future. A new WA biosecurity strategy, addressing legislative and policy reform, was recommended to:

- *guide reform and ensure WA's biosecurity system has the capability and capacity to deal with increasing biosecurity risks and impacts in a financially sustainable way.*

(BAM Act Review p 109)

Review recommendations and response

#	Recommendation	Response
33	Develop a new rolling 10-year WA biosecurity strategy to provide strategic guidance and direction to help achieve a transformation of WA's biosecurity system	Supported in principle

Response comment

The WA Government recognises that a strategic approach is required to strengthen WA's biosecurity system. A system-level statement of the government's priorities, role and responsibilities would provide a foundation for long-term planning and action.

Shortened terms

BAM Act	<i>Biosecurity and Agriculture Management Act 2007</i>
BPC	biosecurity planning committee
DPA	Declared Pest Account
DPIRD	Department of Primary Industries and Regional Development
RBG	recognised biosecurity group
WA	Western Australia

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