"KEEPING AUSTRALIA'S INTERNATIONAL TRADE MOVING"

FTA FREIGHT & TRADE ALLIANCE

Australian Peak Shippers Association Inc. (APSA)

Modernising the agricultural levies; Three-point Plan

POSITION PAPER - 3 MARCH 2024

ABOUT FTA / APSA

Freight & Trade Alliance (FTA) is the peak body for the international trade sector representing more than 500 businesses including major importers, e-commerce providers, freight forwarders and customs brokerages. Since 1 January 2017, FTA has been the Secretariat of the Australian Peak Shippers Australia (APSA), the peak body for Australia's containerised exporters and importers under *Part X of the Competition and Consumer Act 2010* as designated by the Federal Minister of Infrastructure and Transport.

In context of the Biosecurity Protection Levy (BPL), The Hon. Murray Watt (Minister for Agriculture, Fisheries and Forestry) wrote to FTA on 28 February 2024 with an invitation to join the newly created Sustainable Biosecurity Funding Advisory Panel – further detail about the alliance's activities and member directory is available at www.FTAlliance.com.au

EXECUTIVE SUMMARY

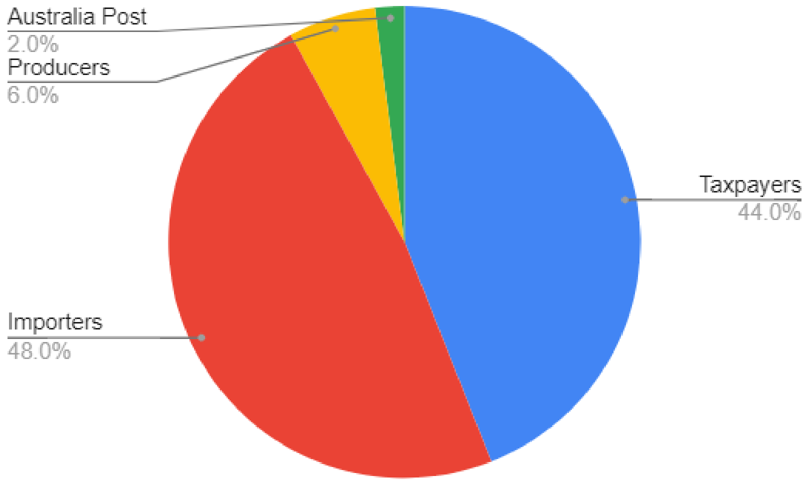
FTA and APSA have engaged with members and key industry stakeholders in developing the following plan to: relieve a financial and administrative burden on producers in terms of the proposed Biosecurity Protection Levy (BPL); address high and rapidly increasing supply chain costs that are adding to the 'cost of living' crisis faced by all Australians; assist Australian exporters to become more internationally competitive; and importantly, strengthen biosecurity safeguards.

Below is a summary of the 3-point plan, recommending the federal government:

1. does not proceed with the complex proposed levy against producers ($47.5m being 6% of the budgeted BPL);
2. increase the Full Import Declarations (FID) cost recovery to recoup the above $47.5m shortfall, and additional funds to address interim remedial action to support import processing until additional permanent resources and benefits of modernised systems are realised; and
3. offset the increased FID cost recovery impost on importers, by regulating against the current incontestable stevedore and empty container park Terminal Access Charge (TAC) regime, currently costing importers and exporters an estimated $850m per annum.

2023 – 24 Budget Announcement

As announced in the 2023-24 Federal Budget, a need was identified for "sustainable funding" that goes directly to strengthening Australia's biosecurity system. The intent was for this to be paid for on a "shared responsibility" basis taking total revenue from $536.2m to $804.6m.[1] By 2024-25, it is proposed contributions will be made as follows:



The "new and permanently increased funding" will contribute towards:

- providing $845m over four years from 2023-24, and $255m per year ongoing from 2027-28, to maintain biosecurity policy, operational and technical functions on a sustainable basis;
- $40.6m over four years from 2023-24, and $12m per year ongoing from 2027-28, for the Indigenous Ranger Biosecurity Program; and
- $145.2m over three years from 2023/24 for the Simplified Targeting and Enhanced Processing System (STEPS) being a modern digital system to improve the effectiveness and efficiency of biosecurity clearance in cargo pathways.

Objection from producers

During Senate Estimates on 13 February 2024[2], The Hon. Murray Watt (Minister for Agriculture, Fisheries and Forestry) announced a revised model of agricultural commodity contributions to be paid towards the broader Biosecurity Protection Levy (BPL).

Public statements from producer groups have been mixed, with some seemingly accepting the changes that now spreads the contribution base across all industry sectors (in contrast to the previous model that added a 10% fee on existing statutory 2020-21 levy rates) whilst many others, such as the National Farmers Federation[3], have strongly objected to its introduction.

[1] DAFF Budget 2023-24 Sustainable funding for a strong biosecurity system
[2] Senate Estimates (Rural and Regional Affairs and Transport Legislation Committee)
[3] NFF media release – Producers remain opposed to Biosecurity Levy

Contribution from Importers

In line with the 2023-24 budget announcements, the Department of Agriculture, Fisheries and Forestry (DAFF) adjusted Approved fees and charges for biosecurity and imported food regulatory activity on 1 July 2023. This included a $5 increase in both air and sea Full Import Declarations (FIDs).

By way of background, FIDs are used to clear goods valued over $1,000 into Australia. It provides details of the cargo, its journey and entities involved. FIDs may only be lodged by the importers or a licensed customs broker. The FID is used to pay duties and taxes on the declared goods.

FIDs (at the time called import entries) were first used as a method to collect government cost recovery following the 1996–97 Federal Budget when introduced by the Australian Border Force (ABF) (at the time called the Australian Customs Service).

Current DAFF and ABF FID Cost recovery:

DAFF FID Cost Recovery	
AIR (consignment value more than $1,000)	$ 43
SEA (consignment value more than $1,000)	$ 63
Australian Border Force (ABF) FID Cost Recovery	
AIR / SEA / POST (consignment value between $1,000 and $10,000)	$ 50
AIR / SEA / POST (consignment value more than $10,000)	$152

The other significant 2023-24 budget announcement was the introduction of a new cost recovery charge on low value ($1,000 or less) goods imported into Australia by air and sea, effective 1 July 2024.

It is anticipated that the new low value import charge will raise $27.1m in addition to the existing $363.6m fees and charges, hence contributing 48% of the total BPL as outlined in the chart on page 2.

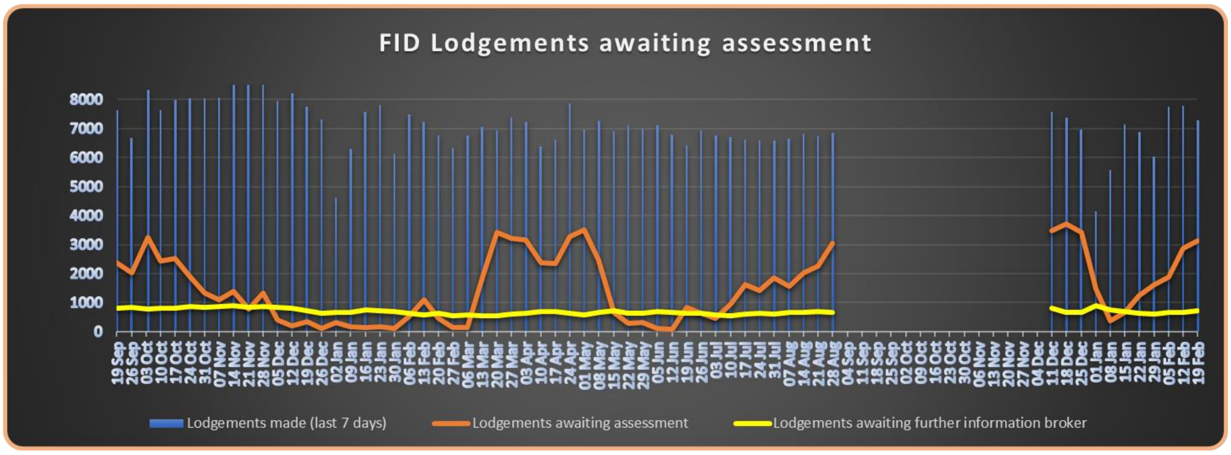
A need for improved service levels for importers

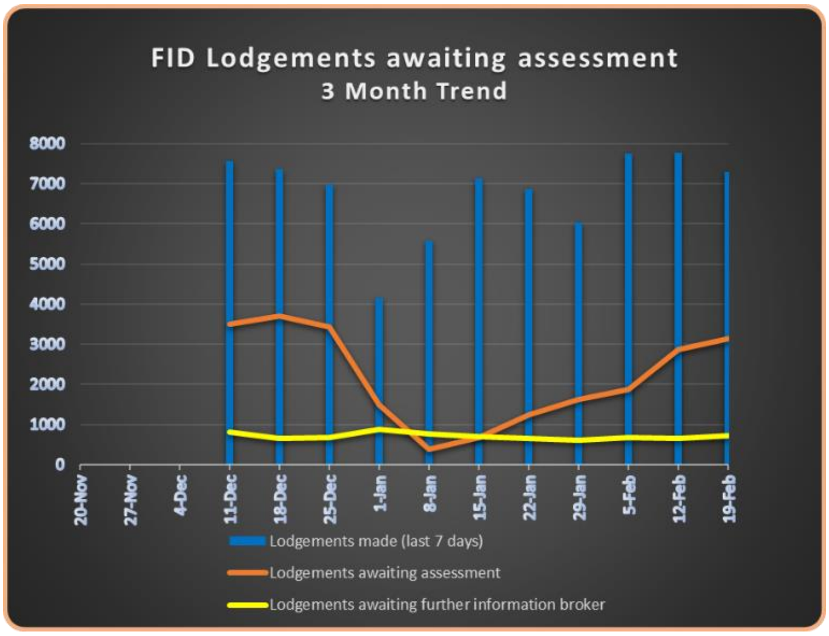
As outlined in an independent report completed by the Inspector-General of Biosecurity (IGB) in February 2021, the biosecurity system was identified then as not being in an adequate position to address the diverse and evolving biosecurity risks and business environment expected to prevail through to 2025. *"This assessment is based on an examination of the systemic problems, including the department's regulatory maturity, its approach to coregulation, inadequate frontline focus, and the absence of an appropriate funding model."*

FTA and APSA representatives met with Minister Watt in Canberra on 18 October 2023, reinforcing these failings as encapsulated in its 2022 Senate Inquiry submission.[4]

Discussion specifically focussed on ongoing fluctuating document assessment and inspection levels that significantly adversely impact importers in terms delays of cargo release, resulting in breaches in commercial contractual arrangements, adding to storage costs and generating significant container detention fees administered by and payable to foreign owned shipping lines.

Some four months later and of serious concern, Senate Estimates on 13 February 2024 revealed that DAFF have had difficulty in their recruitment of assessment officers resulting in acceptable service levels not being met. This outcome is reflected in the below charts indicating DAFF delays in document assessment.





NOTE: charts prepared by FTA using DAFF source data

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[4] FTA / APSA submission - Senate Inquiry into the Adequacy of Australia's Biosecurity Measures

An FTA member (licensed customs broker) supplied data on 29 February 2024 for a 100-day period highlighting their experience that 34% of consignments were processed by DAFF more than 5 business days after lodgement, with these mostly released on or after vessel arrival.

As well as the direct financial implications, these delays are causing confusion and angst amongst supply chain participants and is leaving customs brokers in the unenviable position of communicating the outcomes to frustrated client importers.

A need for interim relief measures

DAFF use labour intensive processes with biosecurity officers physically assessing import documentation and selecting consignments on a set criterion for inspection. Acknowledging the inadequacies of current processes, FTA and APSA see merit in the federal government's position in allocating a significant proportion of the BPL ($145.2m over three years from 2023/24) to introduce the Simplified Targeting and Enhanced Processing System (STEPS) initiative.

Until DAFF can deploy sufficient human resources and the benefits of STEPS are realised, existing officers need to increase their rate of output. Experience has shown that the only viable short to medium-term remedial solution is to deploy existing officers on a well-managed overtime basis.

Importers to pay more in return for reasonable service

FTA and APSA are proposing that the above referenced solution could be funded by increasing the rate of the FID. It is also an option for importers, as "risk creators" to absorb the BPL quantum proposed to be paid by producers ($47.5m).

It is estimated that 4.2m FIDs will be completed this financial year[5]. Dividing $47.5m by an estimated 4.2m FIDs equates to an extra $11.50 per FID.

Importers could absorb this and potentially more (perhaps round up to $15 per FID) to provide extra funds for DAFF officer overtime until additional resources and STEPS is deployed.

Precedent has been set with much larger previous increases. In May 2013, a significant increase in the Australian Customs Service cost recovery fee was announced, aiming to collect an additional revenue of $674.3 million over 4 years.

On 1 January 2014 (for consignments valued over $10,000) the cost recovery for FIDs (sea cargo) increased by $102.60 to $152.60 and FIDs (air cargo) increased by $81.90 to $122.10.

[5] Biosecurity Cost Recovery Arrangement- Cost Recovery Implementation Statement: 2023–24 (Page 13)

Differential charge against importers based on risk

Applying a levy against shipping lines, stevedores or other supply chain participants would be complex and likely to see cascading mark-ups to recover cash flow associated administration as the charge is passed through the supply chain.

The FID remains the most effective way for border agencies to administer cost recovery with importers paying at a net rate.

Taxes (including Duty, Dumpling Duty and GST) are produced on an official receipt along with “other charges” referring to both DAFF and ABF cost recovery.

The samples below show OTHER CHARGES as $215 being ($152 ABF and $63 DAFF cost recovery):

```
**************  E F T   O N L Y  **************
*                                              *
*                                              *
* DUMPING DUTY                       4703.04   *
* GST                                4234.82   *
* OTHER CHARGES                       215.00   *
*                                              *
* TOTAL AMOUNT PAYABLE ***           9152.86 ***
************************************************
* OFFICIAL USE ONLY                            *
*                                              *
* ................................    /  /     *
* SIGNATURE OF AUTHORISING OFFICER    DATE     *
************************************************
* WARRANTED AND RECEIPTED:                     *
*                                              *
*                                              *
*                                              *
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**************  E F T   O N L Y  **************
*                                              *
*                                              *
* GST                                4444.69   *
* OTHER CHARGES                       215.00   *
*                                              *
* TOTAL AMOUNT PAYABLE ***           4659.69 ***
************************************************
* OFFICIAL USE ONLY                            *
*                                              *
* ................................    /  /     *
* SIGNATURE OF AUTHORISING OFFICER    DATE     *
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* WARRANTED AND RECEIPTED:                     *
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For expediency, a simple flat fee increase across all FIDs is a pragmatic solution. Using the above examples, should a $15 FID cost recovery increase be implemented, the OTHER CHARGES would increase from $215 to $230.

Going forward, FTA and APSA recommend DAFF (and the ABF) further engage with industry to implement a differentiated cost recovery arrangement with those importers taking measures to minimise risk (including programs such as Safeguarding, Green Lane, Approved Arrangements and Australian Trusted Trader) to pay a lower FID cost recovery than those higher risk importers.

Importers must have costs offset by other regulation

It is evident from consecutive Australian Competition and Consumer Commission (ACCC) stevedore monitoring reports that shipping line consortia are benefitting from significantly reduced quayside charges administered by their contracted suppliers; savings that are not being passed on down the supply chain via reductions in Terminal Handling Charges.

With less quayside revenue, stevedores have resorted to a ‘ransom’ model forcing transport operators to pay Terminal Access Charges (TACs) or be denied access to container collection / dispatch facilities.

The existing voluntary arrangements established by the Victorian government and adopted by the National Transport Commission have proven to be futile, providing no ability to influence price, and giving stevedores tacit approval to rapidly and significantly inflate fees.

The consistent position of FTA and APSA over many years of advocacy aligns with the Productivity Commission's finding in their draft report as a part of the review of *Australia's Maritime Logistics System*, recommending all charges be negotiated on a commercial in-confidence basis between the stevedore and their contracted client (shipping lines) negating the need to impose charges on third parties who have no ability to influence service or price.

In this model, shipping lines would then have the choice to absorb or pass those costs onto exporters, importers and freight forwarders through negotiated freight rates and associated charges.

FTA and APSA note that the Productivity Commission deviated from this position in its final paper[6] released in December 2022, recommending a mandatory code with the ACCC to act as the pricing regulator with special provisions to keep stevedores highly accountable for any charges imposed on the landside logistics sector.

FTA and APSA are of the view that the proposed mandatory code will undoubtedly be an improvement to the current regime but will be less effective than simply allowing market forces to take effect by forcing cost recovery to take place exclusively via contracted commercial parties, noting shipping lines are best placed to keep a lid on prices charged by their commercial suppliers.

Should the Federal Government implement the Productivity Commission recommendation, it is essential that it do so in its entirety as any watering down of this recommendation will have devastating impacts, leaving our essential containerised trade sector exposed to ongoing and uncontrolled spiralling costs.

While much of the attention has been focussed on stevedores, it is important to note that shipping line-contracted Empty Container Parks (ECPs) have adopted a cost recovery model identical to the stevedores. Importers must use the ECP as nominated by the shipping line to dehire (return) containers after being unpacked. Similarly, exporters have no say as to which ECP they collect an empty container for packing.

It is not sustainable for our exporters and importers to absorb this additional impost of more than $850m annually. The federal government has a unique opportunity to offset the impost of any FID increase associated with the BPL by taking action to regulate TACs administered by stevedores and ECPs.

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[6] Lifting productivity at Australia's container ports: between water, wharf and warehouse