



tasmanian conservation trust inc



**invasive**  
species council

Address for reply: PO Box 166, Fairfield, Victoria 3078

---

# **Submission to Tasmania's Biosecurity Legislation Review (draft position paper)**

**Invasive Species Council  
and  
Tasmanian Conservation Trust**

**April 2016**

## Introduction

The Invasive Species Council (ISC) welcomes the Biosecurity Legislation Review and the opportunity to make this submission. The ISC is a national community-based organisation that seeks to reduce the environmental impact from invasive plants, weeds, diseases and other invaders.

A principle interest of ISC is to see the environmental impacts of invasive species reduced to a minimum. The importance of a strong biosecurity system to Tasmania's agricultural industries and trade has already been reflected in the various State Acts that are the subject of this review. But those same Acts do not reflect the modern understanding of biosecurity as centrally important in protecting the natural environment, wildlife and ecosystems. This puts at risk the natural environment including Tasmania's parks and protected areas, wildlife, marine ecosystems and the strong nature based tourism industry reliant on these.

Protection of the natural environment from invasive species must now be a prominent and central element of the State's biosecurity system, just as the environment is now seen as central to the future of Tasmania's clean, green "brand".

Our comments below indicate some best practice means of ensuring that protection of the environment is provided for in the new Act. These include:

- Tasmania playing a national leadership role in environmental biosecurity
- Putting the Environment up-front
- Starting with what's safe
- Ensuring science-based risk assessments
- Promoting proper effective regulation
- Taking a tenure-neutral approach
- Covering all Life-forms
- Including key principles
- Providing for a general biosecurity obligation or duty
- Including environmental experts and stakeholders
- Ensuring adequate scope including islands and the marine environment
- Providing accountability and review mechanisms
- Establishing inclusive processes to develop and implement a Biosecurity Act

Please note that throughout this submission our use of the term "species" is intended to be inclusive of all taxa including sub-species, cultivars and varieties of a species.

## Means of ensuring Tasmania's environmental biosecurity

The proposed new Biosecurity Act can best ensure Tasmania's environmental biosecurity by the following means:

### Tasmania playing a national leadership role in environmental biosecurity

Tasmania should play a strong leadership role in national policy on biosecurity and invasive species. National biosecurity policy is dependent on a cooperative approach with other governments, largely guided by the Intergovernmental Agreement on Biosecurity. Tasmania should exert its influence to achieve much needed reforms, for example by:

- Accepting the recommendations to the 2015 Senate Inquiry into environmental biosecurity,
- Supporting the proposal to establish Environment Health Australia<sup>1</sup>,
- Improving the National Environmental Biosecurity Response Agreement,
- Improving transparency and involvement of the environmental sector in biosecurity decision-making, and
- Closing off pathways for high risk environmental invasive species.

Leadership in these areas would not only benefit Tasmania but all of Australia.

### Putting the Environment up-front

The review of Tasmania's biosecurity legislation must bring the natural environment to the centre of the State's biosecurity system. Historically, biosecurity attention has focused predominantly on threats to agricultural production and economic interests. While retaining this effort, we need now to boost efforts to protect national parks, bushlands, native grasslands, riparian, estuarine and marine ecosystems from the impacts of invasive species. To achieve this we urge *inter alia* that:

1. The new Act include an explicit object of *reducing the impact of invasive species on the natural environment and biodiversity*.
2. Statutory provision be made for a minimum proportion of members of any statutory committees dealing with environmental biosecurity to have expertise in ecology and the management of invasive species' impacts on the natural environment.
3. The new Act specify central role(s) for the Minister for Environment, and for delegates with expertise in natural and cultural heritage management, management of parks and conservation reserves, and ecological management of marine biodiversity.
4. The new Act contains checks and balances in its decision-making provisions to ensure that departments, agencies or interests that are involved in the importation, trade, breeding, promotion or development of taxa that may pose an environmental biosecurity risk do not have any role in risk assessment or decision making about the relevant taxon or taxa.
5. The precautionary principle be enshrined in the new Act, as in the Environment Protection and Biodiversity Conservation Act (Cwlth)

---

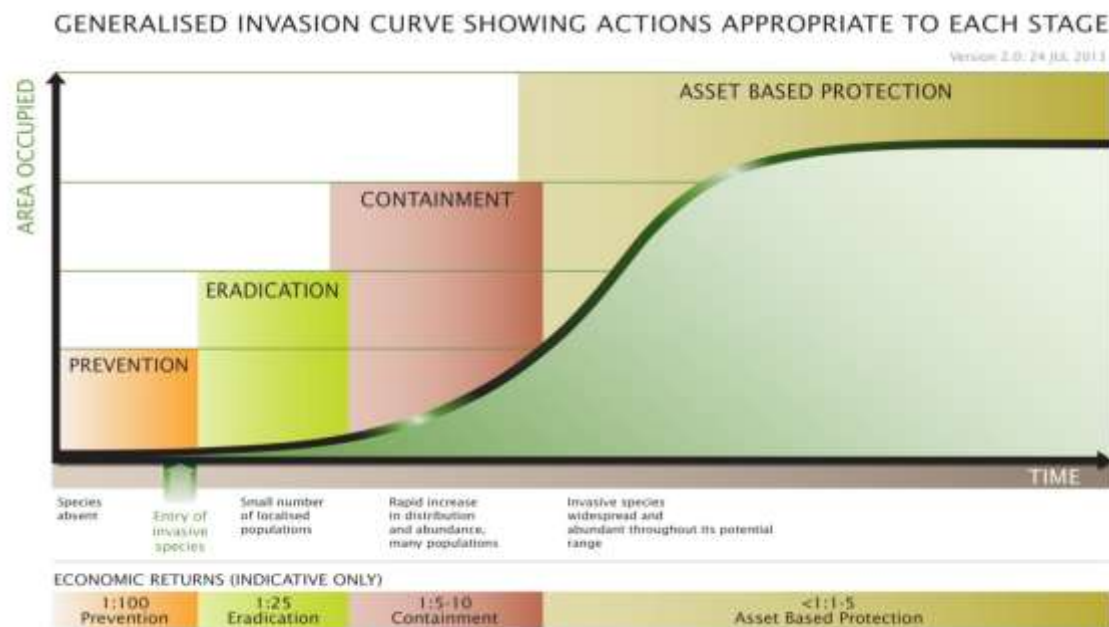
<sup>1</sup> <http://invasives.org.au/publications/keeping-nature-safe/>

## Starting with what's safe

A permitted list or "safe list" approach should be instituted under the new Act for all animal and plant taxa. The most practicable way to prevent most new weed and pest problems is to assess the specific risk of taxa proposed for introduction, and permit the importation, sale and movement only of those that present a very low risk<sup>2</sup>. This approach already operates for proposed new introductions to Australia and to Western Australia, and for the importation of wildlife to Tasmania. It involves establishing a permitted list of taxa and prohibiting or requiring risk assessment of taxa (species, subspecies, cultivars and variants) not on that list.

Complementary prohibited lists can identify taxa that do not pass the risk assessment or are already declared and prohibited.

This approach has a default precautionary position appropriate to a jurisdiction such as Tasmania with very high environmental values susceptible to potentially irreversible loss from biosecurity risks. The diagram below (Taken from the current draft of the Queensland Weed and Pest Animal Strategy, p.10) indicates the cost-effectiveness of precautionary approaches aimed at ensuring prevention of entry of invasive species. A permitted list approach is one such highly cost-effective approach.



Tasmania should work with other governments, particularly Victoria and the Australian Government, to promote the adoption of a consistent permitted list approach across all states. This would provide clarity for industry and stakeholders, and increase efficiency (allowing states

<sup>2</sup> Csurhes S, Randall R, Goninon C, Beilby A, Johnson S and Weiss J (2006). "Turn the Tap Off before You Mop up the Spill": Exploring a Permitted-List Approach to Regulations over the Sale and Interstate Movement of Potentially Invasive Plants in the States and Territories of Australia. Proceedings of the 15th Australian Weeds Conference. C Preston, JH Watts and ND Crossman, Weed Management Society of South Australia Inc, Adelaide: 95-98; Invasive Species Council (2009). *Stopping Weed Invasions: A 'White List' Approach*

to share resources). Promotion of a consistent national permitted list approach should not delay Tasmania's implementation of a comprehensive permitted list approach of its own.

For more detail about applying a permitted list approach see our website at [http://invasives.org.au/files/2014/02/fs\\_weedwhitelist.pdf](http://invasives.org.au/files/2014/02/fs_weedwhitelist.pdf).

### **Ensuring science-based risk assessments**

We endorse the emphasis on evidence-based risk assessment as the foundation for biosecurity, and we emphasise the central importance of science in this regard. Risk assessments under the new Act should be scientifically robust, precautionary, and must be applied comprehensively and systematically. Adequate environmental and ecological expertise must be employed in making assessments of environmental biosecurity risks.

The systematic risk assessment of non-indigenous organisms must cover both taxa already introduced to Tasmania and those taxa proposed to be introduced to Tasmania from time to time. Risk assessment should apply also to new variants or subspecies of already introduced organisms, to prevent the introduction of more invasive cultivars or hybrids and to limit the potential for combination with existing varieties to increase biosecurity risk.

Risk assessments will help to identify the most appropriate interventions for prevention, eradication, containment and management. Consistent with a cost-effective focus on prevention, a very low threshold of risk should be applied in identifying environmental risks, and only organisms assessed as very low risk should be permitted to be introduced into Tasmania. Higher levels of risk may be appropriate to trigger requirements for control of already established invasive species, with priority for resources accorded to those with higher levels of risk. Statutory provision for a rigorous and comprehensive risk assessment process will help to ensure that barriers to action on more contentious aspects of biosecurity (e.g. deer management, cat management) are minimised and seen in the proper context.

The Act should provide that environmental biosecurity risk assessments be made or approved by an independent expertise-based committee that includes sufficient independent people with expertise in environmental biosecurity and ecological science, and through a transparent process. This committee should be bound to a rigorous science-based and precautionary approach, and must make the final decision under the Act about the degree of risk that a taxon poses (subsequent decisions about any action to be taken on the basis of this independently-rated risk would appropriately be made by the Minister or their delegate).

Provision should be made for the public to make proposals to the committee as to taxa warranting assessment and as to the level of risk that might be accorded to taxa (including through public comment on on-line publication of draft decisions).

### **Promoting proper effective regulation**

References in the position paper to reducing the regulatory burden (p. 12) are politically loaded, inappropriate and counter-productive.

While we acknowledge that regulatory efficiency is desirable to an *optimal* point, we urge that it not be sought injudiciously at the expense of the *effective* achievement of Tasmania's environmental biosecurity. Recognising the central importance of regulation to invasive species policy (especially where one is attempting to avert high risk and high impact phenomena) we urge that the word "burden" not be used in relation to regulation. We also strongly urge that

the loaded phrase “red tape”, and the pejorative phrase “green tape” not be used in future papers or in the new Act. Instead, the matter-of-fact term “regulation” can simply be used. Government must embrace the fact that strong regulation is a necessary tool, and that some regulatory redundancies are at times appropriate, especially where a precautionary approach is being taken to avert high risks.

### **Taking a tenure-neutral approach**

The new Act should reflect a tenure-neutral approach, with responsibilities for ensuring Tasmania’s environmental biosecurity consistent regardless of the tenure of the land or waters in question.

### **Covering all Life-forms**

The new Act must cover all life-forms including aquatic invasive species, and all taxa including sub-species, cultivars and varieties of species.

### **Including key principles**

The position paper refers to the Convention on Biological Diversity, yet fails to include the precautionary principle- a key part of that convention. We urge the inclusion of the precautionary principle as reflected in the EPBC Act (Cwlth).

Similarly, while the importance and cost-effectiveness of prevention is noted in the position paper, this is not reflected in the principles proposed. While the principle of the biosecurity continuum arguably includes prevention, the overall suite of principles outlined in Appendix B downplays the importance of a preventative approach. “Hidden” as it is amongst references to “least-restrictive measures”, “flexibility”, “adaptive management” and the remainder of elements in the continuum, prevention appears to recede in importance.

Prevention is in fact of primary importance in biosecurity. We urge that the new Act reflect this by including Prevention as an explicit principle of the Act.

To ensure that environmental biosecurity ensues from the Act’s administration we further propose that principles of intergenerational equity, and of the conservation of biodiversity and ecological integrity and resilience be included in the Act.

### **Providing for a general biosecurity obligation or duty**

We strongly endorse the concept of a ‘general biosecurity obligation’ promoting a shared responsibility for biosecurity, to apply in concert with the other measures outlined in this submission. If it is rigorously and comprehensively applied through clear, enforceable standards, extensive public education and strong enforcement, this has the potential to foster a culture of biosecurity awareness and responsibility. We note that both Queensland and NSW already have statutory general biosecurity obligations consistent with the inclusive and collaborative approach needed to properly reflect the responsibilities and roles of the many players in biosecurity. A stakeholder working group, including with representatives from environmental NGOs, could assist the Government in bringing about an effective biosecurity obligation.

### **Including environmental experts and stakeholders**

There has been insufficient involvement of people and organisations with environmental interests and expertise in the development, implementation and governance of Australian biosecurity policy to date. This has resulted in inadequate and tardy attention being paid to environmental biosecurity threats, with resultant impacts both on the environment and on the public purse (when called on to attempt difficult and costly rear-guard actions to protect environmental assets).

We embrace the concepts of shared responsibility and collaboration in biosecurity. We also note that governments have a leading role to play including on private land, in facilitating prompt and adequate attention to biosecurity aligned with overarching State and national policy objectives. We urge that environmental stakeholders and experts also be actively engaged in the development and through relevant provisions of the new Act. This includes non-government organisations, academics and scientists with environmental interests and expertise.

If stakeholder-based committees are created under the new Act it is crucial that at least one third of members have interests and/or expertise in environmental biosecurity (to complement those who may have expertise in agricultural or other aspects of biosecurity). This will ensure an adequate mix of skills and knowledge is applied to implementation, and ensure that implementation is not skewed towards agricultural or any particular sectoral interest (e.g. deer hunters; salmon farmers, the plant nursery industry).

We urge that the biosecurity legislation include a specific object of promoting community participation in biosecurity including at the policy level and including community environmental interests.

### **Ensuring adequate scope including islands and the marine environment**

The new Act should encompass all of Tasmania's islands and islets, estuaries and marine waters including management of ballast water and biofouling.

Tasmania has an opportunity to lead Australia by adopting cutting edge provisions to tackle the biosecurity issues arising from both ballast water and biofouling, and by urging a strong and consistent approach to these from all Australian governments. For further discussion of important aspects of marine biosecurity to be considered in the development of the new Act please see ISC's submission to the National Marine Pest Biosecurity Review 2015 at <http://invasives.org.au/publications/response-to-national-marine-pests-biosecurity-review-may-2015/>.

### **Providing accountability and review mechanisms**

The new Act must include best-practice measures for accountability such as requirements for public consultation, publication of risk assessments and decisions, and third party review and enforcement rights.

To engender confidence in their credibility, risk assessments and other analyses informing decisions should be published and scientifically reviewed. The concept of 'shared responsibility' should be underpinned by extensive information collection, publication and reporting so that the community can understand biosecurity risks and trends, understand the bases of decision-making, and monitor public good outcomes.

Therefore the new Act should mandate reporting, publication and consultation requirements to optimise transparency and promote understanding of biosecurity

The new Act should also provide third parties acting in the public interest with the right to review and appeal decisions on their merits and to enforce compliance. Consistent with the 'shared responsibility' concept, the public should be granted 'open standing' to allow any person to take civil proceedings to remedy or restrain a breach of the law. The public has multiple strong interests at stake: as landowners affected by invasive species, as taxpayers paying for control programs, as consumers of affected ecosystem services, and as enjoyers and defenders of the natural environment. Decision-making would also be enhanced and the public interest served by a broad public right to apply for merits review of decisions<sup>3</sup>.

### **Establishing inclusive processes to develop the Act**

It is important to properly engage the community in the further development of the Biosecurity Act. We therefore urge establishment of a consultative group, including representatives from NGOs and environmental experts, to be involved in the further development of the Biosecurity Act. We also urge that an exposure draft of the Biosecurity Bill and draft regulations be made available to the public well prior to their introduction to the Parliament.

### **Make no exceptions for Deer**

Deer are not native to Tasmania and cause significant damage to public and private lands. They should be treated as an invasive species subject to the same risk assessment and control as other species. In this regard we recommend to you the draft findings of the NSW Natural Resources Commission review of pest animal management (<http://www.nrc.nsw.gov.au/pest-animal-management>) that provides sound analysis and recommendations that deer be declared a pest species and managed appropriately.

## **Conclusion**

We thank you for the opportunity to comment on the position paper. We urge that sufficient emphasis be placed on environmental biosecurity in the drafting of the new Biosecurity Act.

We look forward to further discussion and involvement in the development of the Act.

---

<sup>3</sup> For further discussion of best practice accountability and review measures see <https://envirojustice.org.au/sites/default/files/files/Submissions%20and%20reports/ANEDO-PC-Access-to-Justice-Submission-FINAL-PDF.pdf>