

INDUSTRY NOTICE

21 September 2023

INFORMING WINE INDUSTRY FEEDBACK ON DRAFT BIOSECURITY BILL 2023

Following Vinehealth’s Industry Notice dated [15 August 2023](#), advising of the new draft Biosecurity Bill for South Australia being available for public comment, Vinehealth advises that it is finalising its feedback as part of the public consultation process.

To inform Vinehealth’s response we have sought Crown Solicitor advice to assist in identifying areas requiring further clarification, particularly in relation to the interactions between the *Phylloxera and Grape Industry Act 1995* (PGI Act) and the draft Biosecurity Bill; noting that the PGI Act will remain a standalone biosecurity Act.

Below we provide high level commentary and key points we are utilising as part of our feedback submission. We encourage industry submitting responses to review these points and utilise these sentiments where appropriate.

Feedback to the SA government on the draft Biosecurity Bill is due by COB 26 September 2023, via completing the [YourSAy](#) survey.

High level commentary	Feedback points
<i>Overarching feedback</i>	
Vinehealth Australia is supportive of the stated premise of the draft Biosecurity Bill, as outlined in Clause 22 – Objects of the Act. These Objects outline a framework that appears to provide great flexibility in managing biosecurity for South Australia.	
The state’s likely level of success in meeting the stated Objects of the Act is expected to be largely driven by availability of resourcing.	Vinehealth Australia highly encourages the South Australian Government and PIRSA to actively invest in sufficient capability and capacity to achieve desired success in biosecurity management facilitated by the draft Biosecurity Bill.
The draft Biosecurity Bill currently includes only one direct reference to the PGI Act under Clause 178 – Emergency order prevails.	The date relating to the PGI Act reference under Clause 178 has been incorrectly stated as 1991 and requires updating to 1995.

<p>The definition of a 'disease' in the Biosecurity Bill is defined under Clause 3 – interpretations, whereas the definition of a 'pest' is defined under a separate clause, Clause 10.</p>	<p>Vinehealth Australia seeks clarity as to why the definitions of a 'pest' and 'disease' are not either both listed under Clause 3 – Interpretation, or alternatively, both listed as separate Clauses in the Biosecurity Bill. Vinehealth encourages consistency to improve readability of the Biosecurity Bill.</p>
<p>The definition of a 'disease' under Clause 3 – Interpretations is stated to include 'a disease agent' and 'a pathogen'.</p>	<p>Vinehealth encourages a review of the definition of 'disease' under Clause 3 – Interpretation. The definition of a 'disease' under Clause 3 – Interpretation currently includes that of 'a disease agent' and 'a pathogen':</p> <ul style="list-style-type: none"> • The definition of a 'disease agent' is articulated to (already) include 'a pathogen' and therefore listing 'a pathogen' under the definition of a 'disease' appears a level of duplication. • 'a disease agent' and 'a pathogen' are considered causal agents of disease - as per the current definition of 'disease agent'. These two terms in isolation are not considered a 'disease' themselves. Vinehealth Australia therefore seeks to understand reasoning for inclusion of these two terms within the definition of a 'disease'.
<p>The definition of a 'pest' in the Biosecurity Bill is clearly articulated in Clause 10 as 'non-indigenous', a 'declared' pest, or that excluded by regulations. However, the definition of a 'disease' within Clause 3 – Interpretation lacks clear scope in relation to indigenous or non-indigenous nature.</p>	<p>Vinehealth encourages the definition of 'disease' within Clause 3 – Interpretation to clearly articulate the intended scope, i.e. whether it relates to both indigenous and non-indigenous diseases.</p>
<p><i>Interaction between Biosecurity Bill and PGI Act</i></p>	
<p>The PGI Act will remain as a standalone Act, separate to that of the Biosecurity Act, and both appear to be intended to operate alongside each other; just as the PGI Act currently operates alongside the <i>Plant Health Act 2009</i> (PH Act). The exception to this is in the case of biosecurity emergencies, where the Bill would prevail in the extent of an inconsistency with another Act.</p>	
<p>Clarifications on the following are needed to verify potential impacts on the constitution and functions of the Vinehealth Board under the PGI Act in light of the proposed Biosecurity Bill:</p> <ul style="list-style-type: none"> • The status of Board members as inspectors under the PH Act; • The powers of Board members as inspectors; • The Chief Inspector position on the Board; and • Actions to be taken on outbreak of disease. 	

<p>Administration of the draft Biosecurity Bill is expected to occur largely through regulations. These regulations have not been made available for review as part of the current consultation, and therefore are expected to yet be drafted.</p>	<p>Vinehealth Australia and the wine industry request the opportunity to review the regulations once drafted.</p>
<p>Transitional provisions have also not been made available for review as part of the current consultation. These are expected to be vital for Vinehealth and industry to review as part of understanding how the PGI Act will interact with the Bill. It is assumed that all Transitional provisions are yet to be drafted.</p>	<p>Vinehealth Australia seeks to clarify whether there is intent to include Transitional provisions in the Biosecurity Bill. Vinehealth strongly encourages this approach.</p> <p>Vinehealth Australia requests that Transitional provisions articulate the administration of consequential impacts to the PGI Act as a result of the Biosecurity Bill.</p> <p>Vinehealth Australia and wine industry requests the opportunity to review the Transitional provisions once drafted.</p> <p>Under Transitional provisions - Vinehealth Australia requests clarification on whether the Chief Inspector position currently appointed under the <i>Plant Health Act 2009</i>, is intended to continue as the Chief Plant Protection Officer, or alternative, on the Vinehealth Australia Board under the Biosecurity Bill. Vinehealth supports continuation of this role, or an alternative mutually agreed role, on the Board.</p> <p>Under Transitional provisions - Vinehealth Australia requests clarification on whether the current appointment of individual Vinehealth Australia board members as inspectors <i>ex officio</i> under the PGI Act is intended to continue via appointment as ‘authorised officers’ under the Biosecurity Bill. Vinehealth strongly encourages continuation of these inspector appointments.</p> <p>Vinehealth Australia seeks clarification on:</p> <ul style="list-style-type: none"> • Whether the current appointment of the CEO and Technical Manager as inspectors is intended to continue once the Biosecurity Bill is enacted; • Whether these appointments will be as ‘authorised officers’; • What associated powers will be provided to these roles; • How this is best formalised – either as part of the Biosecurity Bill, or via an alternative mechanism. <p>Vinehealth strongly encourages continuation of these inspector appointments for key operational staff to aid with incident response.</p>

	<p>Under Transitional provisions – noting that authorised officers have very broad powers under the Biosecurity Bill (same as for current inspectors under the PH Act, as well as various additional powers), Vinehealth Australia seeks clarification on the intended scope of powers to be associated with board members where classified as authorised officers under the Biosecurity Bill. Vinehealth encourages no diminishment to current powers of board members as inspectors.</p> <p>Further to Clause 20 of the Biosecurity Bill around interaction with other Acts and the Bill prevailing in the event of any inconsistencies relating to an emergency - Vinehealth Australia seeks to verify whether there are foreseen impacts to the ongoing continuation of 'Actions to be taken on outbreak of disease' articulated in Clause 14 of the PGI Act, in light of the Biosecurity Bill. Vinehealth Australia wishes to preserve these Actions under Clause 14 of the PGI Act. Should this preservation require articulation as a Transitional provision in the Biosecurity Bill, Vinehealth supports this approach.</p>
<p>Provision of specific commentary on the implementation of the Act is not possible without prior review of the Regulations and Transitional provisions.</p>	