



30 July 2020

Developing a new Biosecurity Act for South Australia

Feedback to PIRSA ahead of Industry Meeting on 7 August 2020

The wine industry has been well served by the *Phylloxera and Grape Industry Act 1995* (PGI Act), its Board and Vinehealth Australia. It is working well and has the support of the wine industry, wine industry organisations and Government.

Therefore, proposals for change need to set out what is changing very clearly. This then enables industry to consider, review, evaluate, form opinions and conclusions. Without information or unclear information, it raises suspicion about what is intended, trust is tested, and leads to positions being developed that will be pursued.

There remains a real opportunity for the Draft Technical Directions Paper (DTDP) and Executive Summary (versions released on 13 July 2020) to be further updated to be absolutely reflective of the Government's position while providing direct information to industry about the changes it proposes.

The following extracts raise matters of interest for the wine industry and we ask that they be further considered to provide greater clarity to industry ahead of the release of the Directions Paper and Executive Summary for public consultation.

Further, the industry meeting on the 7 August 2020 provides an opportunity for PIRSA to present a detailed position to industry as to the impact of the new Biosecurity Act and associated subordinate regulations, on each of the powers and functions listed in the PGI Act, and the structure and governance of Vinehealth Australia. This detailed analysis should inherently address many of the concerns detailed below. Future opportunities for Vinehealth Australia to strengthen and broaden its capacity to support the grape and wine industries should also be explored.

Overarching comment

1. Will there be additional documentation released during public consultation that will direct the public on what you are seeking feedback on? The current draft Executive Summary and DTDP do not provide the public any guidance on where you are seeking commentary. Only on Page 5 of the DTDP does it state the broad line, 'Any suggestions put forward that would help achieve best practice biosecurity in South Australia will be considered when a draft Biosecurity Bill is developed.'

Executive Summary

2. Page 2 – The new Act will not seek to increase regulation or business costs.

While this is applauded, it is difficult to see how this is true on reading the DTDP. Suggest there needs to be examples OR an account of positives and negatives. As an example, industry-based boards and funding mechanisms mentioned on page 4 will increase business costs.

3. Page 2 – ‘It will support the alignment and consistency with national and interstate biosecurity frameworks...’.

It is acknowledged that the existence of the PGI Act (of which there is no equivalent Act in other states) has contributed to South Australia being the engine room of the Australian wine industry, with South Australia having over 50% of the area planted to vineyards planted across the country. The PGI Act can therefore be viewed as a competitive advantage. Does the goal of harmonisation and repealing the PGI Act risk dropping the state’s defenses to the lowest common denominator?

4. Page 3 – ‘Biosecurity is the responsibility of every South Australian.’

While industry and government roles are particularly clear – there seems to be limited documentation about the role of community – it shares the role of biosecurity, it talks of educating the South Australian community – but where does it outline it?

5. Page 5 – Five Acts are proposed to be fully consolidated – including the PGI Act. Given the nature of the DTDP it is unclear what parts will be brought forward to the new Act and included and what will be discarded.

Draft Technical Directions Paper

Scope

6. Page 5 – ‘The new Biosecurity Act will retain the arrangements established by these individual Acts that are working well....’

Suggest there is a table that identifies each section of the PGI Act that is working well.

7. Page 5 –
 - a. ‘There are risks associated with consolidating Acts...’,
 - b. ‘Individual Acts bring a focus and clarity to the issues they manage...’,
 - c. ‘The focus and clarity may be reduced...’

This cannot be true for the PGI Act and the wine industry – there must be no loss of focus or clarity – our industry assets are far too important.

8. Page 6 – Plant Health Act & PGI Act are both being repealed.

Nurseries are a significant issue for the wine industry – how will these be dealt with? One of the primary functions of the PGI Act is with respect to ensuring the production of high health propagation material.

9. Page 7 – PGI Act

This is a very simplistic view of the role of the Board and functions of Vinehealth Australia. By the very nature of the discussion, there are omissions considering the functions of the Board under the PGI Act.

10. Page 7 – ‘...proposed that the PGI Act is repealed and integrated into a new Biosecurity Act.’

There needs to be a clearer understanding of what is intended by this statement. How is the concurrent review of the provisions of the PGI Act going to happen and when?

11. Page 7 – It discusses Vinehealth Australia’s role, a statutory authority, ‘...the PGI Board of SA, remains legally and financially unaffected and their role in protecting South Australia’s viticulture continues.’ Further, ‘...Vinehealth’s independence and strong links to, and direct funding from industry, will be maintained, along with associated accountability...’

On reading it, it would seem its business as usual, but in other places the text gives a different impression.

No mention is made throughout the paper of the impact on the current functions performed by Vinehealth as detailed in the PGI Act. A matrix outlining current functions listed in the PGI Act and whether they will be integrated into the Biosecurity Act or subordinate legislation is requested.

12. Page 8 – ‘...whether additional provisions are required beyond those in the PGI Act to make it fit for purpose...’

What is the process and engagement that will be undertaken on this aspect? When will these provisions be identified and canvassed with industry?

13. Page 8 – on two occasions in the DTDP it highlights that the current PGI Act requires the Presiding Member of Vinehealth to play a role in determining appropriate action to be taken in an outbreak. Greater clarity is required as to PIRSA’s intent with respect to this existing function in the PGI Act (in line with matrix requested in point 11 above).

A single piece of framework legislation

14. Page 11 and 12 – Once the Biosecurity Bill has been introduced into Parliament the focus will be on the development of the subordinate legislation and instruments...yet we hear they will be considered and identified in parallel to the development of the new Act.

For the wine industry, those PGI Act matters that are contained in the Bill will be self-evident, but any matters that are destined for regulation will need to be fully disclosed upfront prior to tabling in the Bill in Parliament.

Greater clarity is needed on what parts of the PGI Act are intended to be in the Biosecurity Act or in subordinate legislation.

International and National biosecurity

15. Page 15 – Figure 2 refers to the State Biosecurity Policy 2020-23 and page 16 refers to South Australia’s Biosecurity Policy 2019-2022 – need consistency.

Core concepts

Shared responsibility

16. Page 18 – ‘...government will continue to provide adequate resourcing and lead and co-ordinate where appropriate...’
Where is the clear understanding of the current resourcing commitment across all the 5 Acts of coverage?

Further, current suggestions are that Biosecurity SA is resource constrained. Industry must have confidence that Biosecurity SA's has core capacity and capability to implement the new Act.

17. Page 20 – 'In addition to the Boards the new Biosecurity Act proposes to continue (Vinehealth Board), the new Biosecurity Act will have the ability to establish additional industry-led and co-funded boards **by regulation**...'. Further, '**By establishing these Boards by regulation, greater flexibility can be provided in their operation.**'

For the wine industry, this also needs to have the statement that with flexibility comes a weakening of the Board which currently is created under and appointed by an Act. A Board by regulation is not going to be acceptable to the wine industry. The absolute position needs to be no weakening of the current functions, operations, powers or appointment of the Board. If it's working, why the need for change?

Proactive biosecurity management

18. Page 22 –function of the new Biosecurity Act – why is there no mention of prevention activity and education?
19. Page 22 – Registration, certification, auditing – will that not increase the costs to business? Refer page 2 of Executive Summary.

Governance and administration

20. What is the impact on Vinehealth Australia and its Board?

Statutory positions

21. Page 25 – It is stated that the two key focus areas for the CPPO are fruit fly and phylloxera.

The industry is keen to understand what activities, other than being a member of the Vinehealth board, the CPPO undertakes in this area that are over and above activities that the CPPO undertakes for all plant sectors that provide reason for this to be the second focus area. Can it be assumed from this that it is intended that the CPPO will commence new activities regarding phylloxera that provide this justification?

Statutory authorities

22. Page 26 – Vinehealth Australia (Phylloxera Board) – this seems a simplistic overview of the role – where is the prevention and education activities?

The DTDP does not reference how the potential conflict between the definition of pest or disease for the new Biosecurity Act and that currently defined in the PGI Act will be addressed.

Registration

23. Page 27 – '...effective traceability system...'

There is no text discussion about the traceability system used in the wine industry, and whether this will meet the requirements OR what will be a trigger for registration as it will be determined by regulation. If implemented this will be a cost to business – refer to page 2 of the Executive Summary.

Traceability

24. Page 28 – ‘...ability to track produce through all stages of production, processing and distribution...’. It will be undertaken through ‘...industry registration and Property Identification Codes.’

Requires discussion about the wine industry and traceability and Vineyard Register – will this be sufficient OR will it not be? Inclusion of text that sets out the current will identify if any change is required for the wine industry. Important to note that the Vineyard Register contains more information than that proposed to be captured by a PIC system and this must not change given its value to the wine industry. The Vineyard Register is noted as a successful approach but there is no reference regarding Vinehealth maintaining this function.

Accreditation authorities

25. Page 30 – A clear opportunity exists for Vinehealth Australia to be the provider of accreditation activities for the viticulture and wine industries, in addition to that currently detailed in the primary functions of the PGI Act.

Funding, fees and charges

26. Page 34 – References the continuation of funding under the PGI Act. It goes on to discuss co-funding measures such as regional or industry-based contributions that is matched by government and used for preventing or managing a particular pest. Further, the consideration of ‘...public good...’ is mentioned. In contrast to fruit fly, it has been indicated previously that there is not enough ‘public good’ to be leveraged if government were to co-fund Vinehealth or match industry levies raised by Vinehealth. Therefore, what is the application to the wine industry of such proposed funding arrangements?

Compliance and Enforcement

27. Page 38 – In this section and in all subsequent discussions around Authorised Officers, Powers, directions, control orders, zones – what is the role of the PGI Act, the PGI Board and Vinehealth Australia?

Emergency management

28. Page 48 – Vinehealth Australia and its Board are currently Inspectors and, together with the Chief Inspector, must take action in the event of an outbreak – what is the future role under the new Biosecurity Act?

Contact

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