Tasmanian Salmonid Growers Association Ltd.

ABN 27 009 590 729

19 December 2012

Mr Stephen Palethorpe
Committee Secretary
Senate Standing Committees on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Mr Palethorpe,

Thank you for agreeing to extend the date of our final submission to the Senate Inquiry for the *Biosecurity Bill 2012* to 31 January 2013.

To date, DAFF has not provided their response to the 76 submissions on their government website, and we have not been notified of its availability. We require knowledge of DAFF's response to make an informed submission to the Senate Inquiry.

Pending publication of DAFF's response to the 76 submissions on the Exposure Draft and a response from DAFF on the questions taken 'on notice', TSGA intends to make a further and final submission to the Senate Inquiry on 31 January 2013 as agreed.

Today, as an attachment to this letter, we respectfully submit our original submission on the Exposure Draft of the Bill to the Senate Inquiry, which remains relevant to our concerns with the Bill in its current form.

Respectfully,

Dr Adam Main
Chief Executive Officer
Tasmanian Salmonid Growers Association Ltd (TSGA)

Mail: PO Box 321, Sandy Bay, TAS 7006. Australia. *Tel: 03 6214 0555*
Office: Suite 2, Mayfair Business Centre, 236 Sandy Bay Road, Hobart 7005 *Fax: 03 6224 6255*

Tasmanian Salmonid Growers Association Ltd.

ABN 27 009 590 729

Australian Government Department of Agriculture, Fisheries and Forestry
GPO Box 858
Canberra ACT 2601

Submission to the Australian Government Department of Agriculture, Fisheries and Forestry (DAFF) with respect to the new legislation to replace the century-old *Quarantine Act 1908*.

Our Industry

The Industry is comprised of four marine farming companies Tassal Group Ltd, Huon Aquaculture Group, Petuna Pty Ltd, and Van Diemen Aquaculture Pty Ltd. Marine farms are supplied with juvenile stock from several freshwater hatcheries, most of which are individually owned by one or other of the farming companies.

The Industry is fully vertically integrated. It both produces and purchases smolt for its diversified marine sites situated around Tasmania (geographic distribution mitigates environmental and disease risk). Fish are harvested in the main at Dover and Macquarie Harbour prior to packaging and/or further processing at the specialist sites, Huonville, Margate, Devonport, and Parramatta Creek.

From an initial 20 HOG tonne harvest in 1986-87, in 2011-12, the Tasmanian salmonid farming industry:

- produced in excess of 40,000 HOG tonnes of Atlantic salmon & Ocean trout;
- with a GVP of approximately $400M;
- provided direct employment for 1,100, and indirect employment for a further 3,850, largely in rural areas; and
- the Industry's fish growing and processing operations are spread across most regions around the state, from South to North.

The Tasmanian salmonid industry is now:

- the largest single "fishery" sector in Australia by GVP;
- the largest primary production sector in Tasmania;
- larger than all other aquaculture and fishery sectors in Tasmania combined; and
- it is a serious contributor to the Tasmanian "food bowl" concept.

The Tasmanian Salmonid Growers Association (TSGA) is a not for profit organisation established by its grower members over 19 years ago to represent the Industry by working with Federal and State Governments and their Regulatory Agencies

Mail: PO Box 321, Sandy Bay, TAS 7006. Australia. *Tel: 03 6214 0555*
Office: Suite 2, Mayfair Business Centre, 236 Sandy Bay Road, Hobart 7005 *Fax: 03 6224 6255*

TSGA is charged by its members with ensuring that reasonable and viable operating standards and conditions are established for the Industry by an Industry/Government partnership within an appropriate regulatory framework.

Our Priority

The number one priority for TSGA is the formal recognition of Tasmania as a region of differentiation in relation to biosecurity and quarantine matters due to its special circumstances and geographic isolation: our unique pest and disease status should be recognised and maintained to ensure the ongoing viability of primary industry in Tasmania. As a region heavily reliant on primary industries the consequences of an exotic pest incursion would have a far greater effect on the Tasmanian economy than in most other states.
Our area freedom from certain pests and diseases has many advantages for Tasmania including:

- Increased market access in overseas markets
- Reduced chemical usage and production costs
- Reduced WHS risk due to reduced chemical usage
- Brand enhancement for the "clean and green" image
- Downstream branding – hospitality and tourism

Key points regarding the risks associated with losing regional differentiation for salmon aquaculture

- The crisis caused in the Chilean industry by the trio of Infectious Salmon Anaemia (ISA), Salmon Rickettsia, and sea-lice, is now acknowledged to have halved production and cost 25,000 jobs in rural Chile. There is now evidence that the ISA virus was introduced into Chile in 1996/97 via **imported material**, before emerging as a disease in 2006 and exploding as a disease catastrophe in 2008/09. It is estimated that it will be 2013 before production of farmed salmon in the Chilean returns to 2006 levels.

- Other fish diseases also continue to traverse the globe, often transferred far from their place of origin by the increasing trend of global trade. Pancreas Disease is being brought under control in Norway and Scotland, but Spring Viraemia and Koi Herpes virus of cyprinids is on the increase in the UK. Viral Haemorrhagic Septicaemia virus is spreading in the USA. The list of bizarre names continues to emerge but the common thread is pathogens inadvertently transferred from one environment to another, then finding a suitable host.

- Import risk assessments, or indeed translocation risk assessments in a domestic context, have a scientific component and a political component. The scientific component examines the relationship between host and pathogen combinations which may occur through translocation, and science assesses the risk of a harmful outcome and the likely commercial impact of such a harmful outcome. The scientific component depends heavily on detection of pathogens, a process which is demonstrably less that 100%

accurate. The political component is heavily biased in favour of national rather than regional interests, particularly given the pressures of international trade

- TSGA members, representing 98% of the salmonid farming industry in Australia, have a strategic plan aimed at growing our industry by 40% by 2015 and by 80% by 2020, and doing so in a sustainable fashion. We remain concerned about the disease risk posed by imported material, a factor out of our control. We consider it very fortunate that the Tasmanian Government, with the support of many Tasmanian Senators in the Federal Parliament, resolved to implement additional measures to restrict the movement of imported salmonid product into Tasmania thereby reducing the risk from exotic salmonid diseases.
- In order to justify such onerous restrictions, The Tasmanian salmonid industry has been committed to the Tasmanian Salmonid Health Surveillance Program (TSHSP). The TSHSP is a joint initiative between the Tasmanian Department of Primary Industries, Parks, Water and Environment (DPIPWE) and the Tasmanian Salmonid Growers Association that has been in operation since 1993. A key objective of the TSHSP is Demonstration of freedom for those salmonid diseases considered exotic to Tasmania, but not necessarily Australia, in order to provide support for maintaining state border biosecurity regulations.

Introduction

Firstly TSGA supports the review and overhaul of the Quarantine Act which after a century fails to reflect the biosecurity environment which we currently operate in. Many of the proposed changes to the legislation addresses the weaknesses in the existing legislation however some of the proposed changes within the Bill do cause some considerable concern for primary producers in Tasmania.

Chapter 1: Preliminary

Whilst there are many reasons for there to be consistency across state jurisdictions, it should not be to the detriment of a specific state(s) economy or capacity to generate income.

Whilst industry (particularly primary industry) has been the driver for a range of biosecurity issues we must not neglect the social and environmental consequences of maintaining regional differentiation. In regions such as Tasmania, preservation of World Heritage forests and other environmentally sensitive areas is essential as it is also financially significant to the state's economy both now and into the future.

It is important that the proposed ALOP model, currently focussed on trade risks, captures the gamut of biosecurity risks which affect a jurisdiction. When does an Appropriate Level of Protection (ALOP) take into consideration brand image, tourism, hospitality or regional economies of scale? When an ALOP is profiled against a specific pest threat it does not take into consideration the broader consequences of a biosecurity breach. In Tasmania a primary industry can be the mainstay of a regional community, it can be the item on every single menu across the state, it can be the iconic image on tourism advertisements, and it can provide the impetus to keep local schools and shops open.

Tasmania should be able to exercise its rights in relation to protecting its borders to ensure that the Tasmanian economy and well-being of the state are maintained.

Whilst it has been argued that having one single national approach makes market access easier and reduces confusion, Australia deal with a number of countries that continue to maintain regional differentiation due to pest and disease risk; two examples being USA and China. Australia respects the rights of foreign countries to set regional zones based on quarantine status and therefore Australia should recognise within its own federation the rights of states to have their own quarantine zones and restrictions as well.

Chapter 3: Managing Biosecurity Risks (Goods)

TSGA believes that undertaking thorough import risk assessments is fundamental to protecting Australian industries from pest and disease threats. TSGA also believes that existing risk analysis arrangements must be maintained.

The current Import Risk Analysis (IRA) process will be superseded by the proposed Biosecurity Import Risk Analysis (BIRA) process which at this point in time does not appear to be a truly independent. The Beale review '*One Biosecurity: a working partnership*' (2008) recommended the formation of an independent group to administer the IRA process and that "*reviews of Biosecurity Import Risk Analyses would be possible at several levels (use of external experts in the peer review of Biosecurity Import Risk Analyses, formal consultation with stakeholders, and external review by the Eminent Scientists Group)*". Providing such mechanisms will "*improve the way decisions are made and to generate public confidence*".

The responsibility to commence the BIRA process is at the discretion of the Director of Biosecurity and/or the Agriculture Minister and can be taken without a clear set of guidelines or requirements. TSGA fear that the decision to undertake a BIRA may be overlooked if industry is not appropriately advised or consulted. Industry request both the ability to have input in the decision making process and the terms of the assessment, if ultimately it is decided to undertake a BIRA.

Also given the broad scope of the Director of Biosecurity, and the integral link that this position will have from process through to decision making, it also raises the potential for conflict of interest within this position and even within the department supporting this position.

At this point the BIRA process is to be detailed in the Regulations however TSGA fear that the process and consultation requirements will not meet industry expectations. Given the proposed structure the ability for the Federal Government to provide evidence based decisions is doubtful.

In relation to Australia's ALOP, the current definition as proposed in the legislation is loose, open for interpretation and largely focussed from the perspective of trade. The ALOP process from a national perspective does not take into the consideration the regional consequences of the risk nor does it fully encompass the consequences of biosecurity risks across a much broader perspective. Regional risk needs an appropriate **weighting** in the ALOP assessment process.

As stated previously the use of an ALOP is largely confined to the trade aspects of import process however the implications of biosecurity breaches can be far greater. Pest incursions can have substantial effects on regional biodiversity and ecosystems which in turn can put the environment, industry and public health and well-being at risk.

Tasmania has several mitigating factors which highlight the requirement for risks to be assessed at a regional level. With Bass Strait acting as a natural barrier and strong barrier protection through entry points, the ability for Tasmania to maintain a separate quarantine zone is feasible. As already demonstrated, Tasmania has successfully managed to maintain area freedom from several mainland pests such as fruit fly.

Furthermore the consequences of outbreaks or establishment of pests in Tasmania can potentially have immediate consequences on the regional economy of Tasmania. One in five people are directly or indirectly employed in primary industry in Tasmania and the income generated from the sector underpins the survival of our regional areas and towns.

Of concern is the omission of the use of the Eminent Scientists Group (ESG) who were responsible for reviewing submissions and research in relation to IRA's. The ESG provided balance and security to the import process by applying scientific rigour to the process. The current proposed import process does not include a strong independent and scientific reference group which will ensure impartiality and integrity.

Finally, the proposed legislation does not provide an **independent appeal process** which is based on facts and science. This leaves our industry powerless to challenge an imported product coming into Tasmania, even if there is general consensus that it poses a significant biosecurity risk.

Chapter 4: Managing Biosecurity Risks (Conveyances)

Chapter 5: Ballast Water

Chapter 6: Prevention & Control Measures

The new measures to be introduced through the proposed legislation cause concern for state sovereignty, as the rights of states to maintain their own laws could be threatened. Whilst the intent of the proposed Bill s is to work co-operatively with the states, the state legislation can potentially be overridden by the Director of Biosecurity where it is deemed the state is undermining the Commonwealth.

TSGA acknowledges that some of the actions which can be taken under Chapter 6 can be perceived favourably, such as the establishment of biosecurity zones, however at the same time we can see that these powers could easily be used to the detriment of state jurisdictions as well.

Enabling the Commonwealth with the power to intervene and manage exotic pest incursions across all state jurisdictions could be advantageous to ensure a quick and co-ordinated response. However, the decision pathway to implement the control measures appears to be

left again to the discretion of the Director of Biosecurity. Will this sole person be responsible for making the call whether to eradicate the pest or simply act to control the pest? There are many technical and scientific considerations to be made when assessing an incursion and these considerations need to be more clearly qualified in the legislation.

The proposed legislation should also be able to provide some degree of security for primary producers against individuals who inadvertently or knowingly compromise Australia's biosecurity status. Whilst Codes of Practice and similar are employed by many industries to manage biosecurity risks, such control measures do not extend to "hobbyists", "recreational users" and other such practitioners. It is widely acknowledged that such groups pose some of the highest risks for primary industry due to their lack of knowledge, experience and authorities inability to reach, educate and monitor such groups effectively.

Chapter 7: Approved Arrangements

Approved Arrangements are, in principal, a cost effective and resource friendly option however they are only as good as the rigour and integrity built into the auditing and monitoring process.

The Australian government needs to ensure primary industry that the systems implemented and managed by the exporting country meet the requirements of Australia and that an appropriate audit and monitoring system is in place. This establishment of trust is critical if bilateral trade is to occur. At the same time DAFF should ensure that such systems are also available to Australian producers seeking market access.

Chapter 8: Emergency Procedures

Chapter 9 & 10: Compliance & Enforcement

Chapter 11: Governance & Officials

TSGA are concerned that a substantial amount of power has been installed upon one person who will have the power "to interpret and apply the legislation" at their discretion. The Director of Biosecurity will have the ability to make decisions in relation to biosecurity seemingly without a science based, independent panel of appropriately skilled personnel to underpin the process.

TSGA find it exceptionally difficult to comprehend that such a person would have the skills and background to enable sound decision making processes to occur. It is inevitable that at some point the Director of Biosecurity will need to seek additional information and expertise. TSGA fundamentally want to see the re-introduction of a group/panel such as the Eminent Science Group or at the very least the legislation should ensure that there is a mechanism to appoint such a group where it is deemed appropriate to establish such a reference group.

Whilst it is noted that an Inspector General of Biosecurity has been appointed to deal with appeals through the BIRA process, this position is once again not underpinned by an

independent, science-based group which can debate the science and reason behind the appeals process.

Furthermore it is contradictory to allow an appeal process to proceed for some issues as detailed in Chapter 12 but not for other issues, or allow appeals based on the process but not on the outcomes. Given that the Director of Biosecurity may follow the BIRA process (as required under the yet to be determined Regulations) there does not appear to be any requirement for the Director of Biosecurity to make a binding decision based on the process.

The list of Reviewable Decisions, whilst extensive, does have some obvious omissions, particularly in relation to appealing an import decision from the perspective of stakeholders who are appealing against a decision from DAFF to allow imports of particular products. Given that the current legislation has taken over a century to change there needs to be some flexibility within the legislation to add other categories of appeals (or case-by-case criteria) to the list of Reviewable Decisions.

Chapter 12: Miscellaneous

The issue of Full Cost Recovery causes considerable concern for industry for several reasons.

Firstly, the delivery of biosecurity services is to the advantage of the general population (public good), especially in a country which has a strong reliance on primary industry across all states and territories. Strong biosecurity protects ecosystems, world heritage forests, tourism, public health and a range of other categories – it is not just there to protect growers, farmers, harvesters and producers.

Secondly, breaches to biosecurity are rarely due to the action of commercial operators who risk their own potential livelihood. Biosecurity breaches may be due to tourists, recreational users who do not adhere to farm hygiene policies or codes of practice to ensure that best practice is implements. Biosecurity incursions have been the result of home gardeners, backpackers, bushwalkers (to name a few) who potentially inadvertently have spread pests and diseases which have caused considerable costs and disruption to commercial industries.

TSGA recognise that some fee for service activities should occur but primary industry should not be responsible for covering the costs due to the demonstrated public good that biosecurity has to the Australian public. The Australian Government has a duty of care to protect Australia's borders from pest and disease incursions and each state should also be able to exercise that same duty of care based on regional ALOP's.

In Summary

- TSGA supports the review and overhaul of the Quarantine Act which after a century fails to reflect the biosecurity environment which we currently operate in.
- The number one priority for TSGA is the formal recognition of Tasmania as a region of differentiation in relation to biosecurity and quarantine matters.
- Consistency across state jurisdictions should not be to the detriment of a specific state(s) economy or capacity to generate income.

- TSGA believes that maintaining existing and undertaking thorough new import risk assessments is fundamental to protecting Australian industries from pest and disease threats.
- Regional risk needs an appropriate weighting in the ALOP assessment process.
- TSGA fundamentally want to see the re-introduction of a group/panel such as the Eminent Science Group.
- The issue of Full Cost Recovery causes considerable concern for industry.

I thank you for the opportunity to comment on the proposed new legislation and I look forward to your reply.

Yours sincerely,

Dr Adam Main
Chief Executive Officer
Tasmanian Salmonid Growers Association Ltd (TSGA)