



# Developing a Biosecurity Bill for South Australia

Public consultation summary



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Information current as of December 2023

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### Further information about the project

Further information can be found on the PIRSA website: [pir.sa.gov.au/legislation\\_reform](http://pir.sa.gov.au/legislation_reform)

### Acknowledgement of Country

The Department of Primary Industries and Regions respects Aboriginal people as the state's first people and nations. We recognise Aboriginal people as traditional owners and occupants of SA land and waters. We pay our respects to Aboriginal cultures and to Elders past, present and emerging.

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# Background

The Department of Primary Industries and Regions (PIRSA) has developed a new Biosecurity Bill for South Australia.

On 1 August 2023, a draft version of the Biosecurity Bill 2023 (the 'Bill') was released for public consultation to seek feedback from stakeholders across industry, community and government to inform any further drafting to refine the Bill. The draft Bill, an overview document and a more detailed explanatory guide and other consultation materials were provided at [www.yoursay.sa.gov.au/biosecuritybill](http://www.yoursay.sa.gov.au/biosecuritybill).

The release of the draft Bill followed on from public consultation in 2020 on a Technical Directions Paper and further stakeholder consultation on concepts and potential Bill inclusions in 2022.

The draft Biosecurity Bill broadly aims to:

- Protect South Australia's economy, environment and way of life from pests, diseases and other biosecurity matter (including contaminants of agricultural produce)
- Share responsibility for biosecurity amongst government, industry and community
- Have risk-based decision making
- Have a flexible and responsive framework that covers the continuum of biosecurity actions from prevention to emergency response to control programs
- Use scientific and technological advances to continually improve biosecurity practices
- Comply with national biosecurity agreements and better align with other jurisdictions in the national biosecurity system
- Facilitate market access for primary products
- Foster people's compliance with biosecurity obligations, including communicating requirements, so people voluntarily and routinely comply with these

The Bill provides a contemporary legislative framework for the protection of the state's economy, terrestrial and aquatic environments and communities from the impacts of pests, diseases and other biosecurity matter. The Bill consolidates the *Plant Health Act 2009*, *Livestock Act 1997*, *Dog Fence Act 1946* and *Impounding Act 1920* as well as relevant parts of the *Fisheries Management Act 2007*. The Bill broadly aligns with new, consolidated Biosecurity Acts in other states and at the Commonwealth Government level.

The Bill includes harmonised, flexible and outcome-focused regulatory tools to prevent, control and manage biosecurity risks. These include enhanced powers for a rapid and effective response in a biosecurity emergency, and a suite of tools to manage short, medium and long-term response and management needs. A key concept in the Bill is that of shared responsibility for biosecurity. For example, every person would have a general biosecurity duty to manage biosecurity risks to the extent it is reasonably practicable. The Bill also facilitates co-regulation and partnerships through provisions to adopt industry biosecurity codes and standards and to enable third-party accreditation. The Bill contains extraterritorial powers to enable compliance measures against interstate activities which pose a biosecurity risk to SA. The Bill provides for traceability and market assurance of animals, plants and their products, through registration, identification and certification schemes.

# Public consultation overview

## YourSAy

PIRSA released the draft Biosecurity Bill, with supporting overview and explanatory materials, for public consultation from 1 August to 26 September 2023 via YourSAy. This information remains available at [www.yoursay.sa.gov.au/biosecuritybill](http://www.yoursay.sa.gov.au/biosecuritybill).

Stakeholders were encouraged to get involved in the development of new biosecurity legislation for South Australia by reading the draft Bill and other consultation materials. Submissions were sought during the consultation period through a YourSAy survey that considered all provisions in the Bill.

Links to both webpages were publicised through multiple channels including direct emails and social media posts via PIRSA's Facebook, Twitter and LinkedIn accounts with a total following of about 20,000 users.

In addition to conventional and social media publicity, the project page was promoted via email to 35,788 registered YourSAy users. The page recorded approximately 2,400 visits during the consultation period.

PIRSA received 58 submissions from 51 unique stakeholders during this consultation period. Twenty-nine of the submissions were YourSAy survey responses (one of which was an additional comment on an earlier written submission) and a further 29 were emailed responses (six of which had also completed the survey).

## Engagement

PIRSA hosted 12 webinar sessions as part of public consultation between 21 and 25 August 2023. Two of the sessions provided a general overview of the draft Bill, while 10 were focused on providing sector-specific overviews. The webinars enabled interested stakeholders to raise questions with PIRSA to enhance their understanding of the draft Bill. A total of approximately 100 people attended webinars related to the following categories:

- General sessions
- Horticulture, grains, seeds and fodder
- Forestry sector
- Wine sector
- Red meat, wool and dairy
- Intensive industries
- Apiary
- Veterinary services, animal research, equine and racing
- Aquaculture, fishing and boating
- Regional and natural resource management
- Dog fence



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More sessions were scheduled, however, unfortunately some sessions had no registrations, including a planned 'First Nations' session.

PIRSA also met with a range of stakeholder organisations during the consultation period to discuss the Bill, providing further information to clarify any queries to support their consideration and formal submissions on the Bill.

## Stakeholder representation in feedback received

PIRSA received 58 responses from 51 unique stakeholders during this consultation period. Figure 1 further categorises these responses.

'Primary industries organisations' encompassed submissions from the horticulture, livestock, grains, forestry, wine and aquaculture sectors. 'Other industries' included mining, electricity and tourism. 'Government' submissions included state government agencies, landscape boards and local government. 'Conservation' encompassed non-government organisations and the research submission was from a university. 'Individual – rural' submissions were taken as those that classified themselves as producers, land holders or contractors, with the remainder classing themselves as citizens.

**Figure 1** Stakeholder responses received for various types of organisations or individuals.



# Summary of consultation feedback

Key feedback received during consultation on the draft Bill is summarised below, and Appendix 1 provides a complete record of feedback received (note that feedback in Appendix 1 has been condensed for the purposes of brevity). PIRSA acknowledges that a stakeholder may feel their views have not been fully represented in this summary report; however, it is important to note that submissions were reviewed and considered in full. It is noted that much of the feedback received related to either the future development of regulations or implementation of a Biosecurity Act. These submissions have been noted for future consideration, pending the Bill being passed by the Parliament.

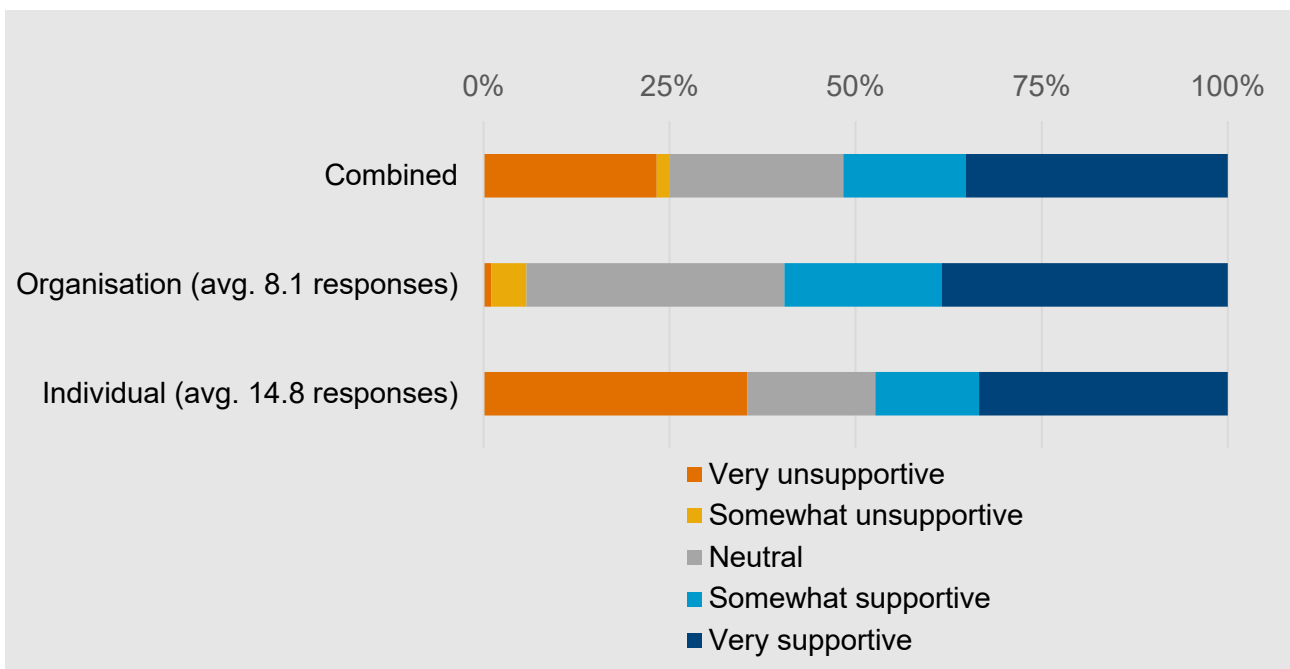
YourSAy survey rankings, showing levels of support for specific Bill provisions, are provided in graphs at Appendix 2. These data comprise the 9 organisations and 17 individuals that provided survey rankings.

## Levels of support

Statements of general support for the Bill’s intent to consolidate existing Acts into contemporary biosecurity legislation were received from various industry and government organisations. Whilst no organisations were specifically opposed to the Bill’s intent, various queries were raised about particular provisions (below and Appendix 1).

The YourSAy survey did not specifically ask respondents to rank support for the Bill as a whole. However, an indication of overall support can be derived by combining all rating responses across the 60 questions on various Bill provisions (noting that not all questions were answered by all respondents). Figure 2 shows this graphically. The combined survey responses of 9 organisations and 17 individuals were 51% supportive of the Bill overall, with only 25% unsupportive and 24% neutral. Note that this overall result includes a high representation of views from individuals, with these comprising almost two thirds of the YourSAy survey respondents.

**Figure 2** Percentage of responses in each category of support across all draft Bill provisions.



Whilst only 9 of the 34 organisations that provided submissions on the draft Bill provided YourSAy survey rankings, these were 59% supportive of the provisions of the Bill overall, with only 6% unsupportive.

Amongst the individuals' YourSAy survey results 47% of individuals' responses ranked as somewhat or very supportive. Despite this support, there was a substantial cohort generally opposed to the draft Bill's provisions, with 35% of questions ranked as 'very unsupportive', while none were 'somewhat unsupportive'. It was difficult to better understand what underlay this polarised outcome, as many of the unsupportive respondents did not take the opportunity to elaborate on the reasons for their responses.

The survey's instructions were that 'neutral' responses were intended to mean neither supportive nor unsupportive. However, neutral may also have been chosen where respondents felt they could give no informed opinion. For example, provisions relating to the Dog Fence, which would not affect most stakeholders, had the highest levels of neutral rankings.

## Feedback summary

Stakeholders provided valuable and wide-ranging feedback, expressing a diversity of views. As previously noted, many of these related to development of the regulations and implementation, and these have been noted and recorded for future reference during implementation. There were also many queries seeking clarification on various matters, and others that were comments, rather than providing feedback on the Bill itself. An overview of the key issues raised is provided below.

### Bill intent, key terms and scope

Stakeholders raised a number of queries relating to how the Biosecurity Bill would interact with other Acts, such as the *Environment Protection Act 1993*, *National Parks and Wildlife Act 1972*, *Aboriginal Heritage Act 1998*, *Native Vegetation Act 1991* and *Landscape South Australia Act 2019*. These related to ensuring effective regulation occurred across the intersections of these Acts, such as in cases where biosecurity responses may involve native plants or animals, culturally significant species or landscapes, or matters relating to the environment, as well as defining clear limits of scope between Acts and ensuring that the operation of one Act did not unduly impinge on the operation of others.

Ensuring access for essential services, such as utilities, during a biosecurity response was raised.

The concepts of shared responsibility and risk-based decision making were supported in some stakeholders' submissions, although it was noted that cost-sharing needs to be fair and equitable, that investment will be required to communicate to stakeholders regarding their obligations under the general biosecurity duty (GBD), and that decision making frameworks should be clear and transparent.

### Biosecurity duties

The general biosecurity duty (GBD) received wide support, but some stakeholders also commented that the GBD would require adequate resourcing to educate industries and the general public about how to comply. There were also some queries about when the GBD would apply, and whether it provided sufficient scope to manage issues such as the biosecurity risks posed by abandoned orchards or those associated with third party access and trespass on farms.



## **Authorised persons**

A number of submissions touched on authorised officers under the Bill. Issues raised included ensuring that appropriate checks and balances were in place when making appointments, decisions under the Bill, or delegating authority. More specific queries related to authorisation of Vinehealth Australia board members under the Bill (they are authorised under the *Plant Health Act 2009*), and a suggestion that the Bill should include a Chief Environmental Biosecurity Officer.

## **Dog Fence**

Feedback was received in relation to the incorporation of the *Dog Fence Act 1946* into the Biosecurity Bill. This included a suggestion to increase the number of board members, and another to formalise the arrangement whereby the government has historically matched contributions from the Sheep Industry Fund to the Board. There was also opposition to the carrying over of an existing, but unused, provision from the *Dog Fence Act 1946* which provides for the Dog Fence Board to obtain contributions from councils as an alternative to applying rates directly from the Board.

## **Traceability and market access**

Submissions relating to traceability and market access in general comprised queries about implementation of the Biosecurity Bill, rather than the Bill itself. For example, details concerning the application of identification code schemes, registration requirements for vineyards, managing any potential for conflicts of interest by accreditation authorities, and queries regarding fees and the potential for insurance to be required as a condition of becoming a certifier or registered for certain activities.

## **Orders, zones, directions and permits**

The suite of tools for management of biosecurity risks through orders, zones, directions and permits enjoyed good support in the submissions received. Stakeholders commented on the need to ensure that these were appropriately exercised, with appropriate checks and balances in place and aligned with other relevant or similar South Australian legislation, and that fees for permits should not unduly impact industry, in particular small businesses.

## **Programs and compensation**

Several submissions supported the provision for the establishment of biosecurity programs, although some also opposed this, suggesting that it may lead to cost shifting from government to industry. There were also suggestions regarding implementation, such as potential inclusions for compensation under a biosecurity program, such as high value breeding stock.

## **Compliance, specific powers and Act administration**

Overall, there was support for a robust and transparent compliance framework within the Bill, although some stakeholders queried powers to act based on reasonable suspicion. Feedback was received regarding the need for consistency in availability of options to seek review of decisions made under the Bill, as well as the requirement for those affected to be informed of review options.

## Appendix 1 — Specific feedback received

The following tables provide a summary of feedback raised by various organisations and individuals in their submissions on the draft Biosecurity Bill.

Table A1.1 Bill intent, key terms and scope	
Bill provision	Stakeholder feedback
<p><b>Objects of the Bill</b> <i>clause 22</i></p>	<ul style="list-style-type: none"> <li>• Supportive of the object of a risk-based approach to biosecurity. However, there can be significant variance in risk appetite between stakeholders. Implementation will require clear communication of the risk framework being used.</li> <li>• In line with the Bill's underlying philosophy of risk-based decision-making, there will be a need to take a proactive biosecurity approach to avoid new pests and diseases becoming established. Surveillance activities form an integral component of a biosecurity risk management system.</li> <li>• Acknowledge the object of shared responsibility, but question what this means in practice in terms of cost sharing? There should be broader contribution to costs of biosecurity beyond primary industries (e.g. tourism, environment managers). Industry competitiveness should be taken account of in terms of setting fees.</li> <li>• The importance of environmental biosecurity needs to be prominent in the objects.</li> <li>• Include the protection of culturally significant objects and landscapes from being negatively impacted in the Bill's objects.</li> <li>• Need to recognise that cultural impacts are additional to economic, environmental and social impacts. Need for clear inclusion of First Nations peoples' perspectives and roles in biosecurity.</li> <li>• Need to ensure that legislative alignment with other states and Commonwealth is also in the interests of protecting South Australia's assets.</li> <li>• The Bill should include best practice biosecurity principles, for example:             <ul style="list-style-type: none"> <li>○ prevention is smarter than cure</li> <li>○ timely action is crucial</li> <li>○ protecting the natural environment is core business</li> <li>○ a precautionary approach is required</li> <li>○ science-based risk assessment</li> <li>○ all taxonomic groups are included</li> <li>○ a tenure-neutral approach</li> <li>○ effectiveness rules</li> <li>○ future generations matter</li> </ul> </li> </ul>

<p><b>Definitions of key terms</b> <i>clauses 3-12</i></p>	<ul style="list-style-type: none"> <li>• Greater clarity is needed regarding definitions for disease, environment, incursion, pest, contaminant, animal food.</li> <li>• Native species could be declared as pests by the Minister. The Bill should exclude native plants and animals that are protected under other SA Acts.</li> </ul>
<p><b>Extraterritorial application</b> <i>clauses 19, 32</i></p>	<ul style="list-style-type: none"> <li>• General support for proposed extraterritorial powers.</li> <li>• Clarity sought on whether this includes online activity, such as e-commerce platforms and unregulated online livestock sales.</li> <li>• Note for forestry biosecurity purposes that the Green Triangle extends across the SA-Victoria border.</li> <li>• Need to be clear on powers and procedures when seeking to enforce the SA Act in another jurisdiction.</li> </ul>
<p><b>Contaminants</b> <i>clause 5(2)</i></p>	<ul style="list-style-type: none"> <li>• Determining an animal or plant, or the product of an animal or plant, is contaminated if it 'is likely to' impact on use, health or marketability should be an evidence-based decision.</li> </ul>
<p><b>Intent to consolidate existing Acts in whole or part</b> <i>Schedule 6</i></p>	<ul style="list-style-type: none"> <li>• Supportive of consolidation of Acts</li> <li>• Powers to respond to a phylloxera incursion should not be diminished due to the Biosecurity Bill not proposing to incorporate the <i>Phylloxera and Grape Industry Act 1995</i>.</li> </ul>
<p><b>Interaction with other Acts</b> <i>clauses 20, 204, 240</i></p>	<ul style="list-style-type: none"> <li>• Appropriate alignment needed with the <i>Landscape South Australia Act 2019</i>, <i>Native Vegetation Act 1991</i>, <i>National Parks and Wildlife Act 1972</i>, <i>Animal Welfare Act 1985</i>, <i>River Murray Act 2003</i>. Need to include consultation with respective Minister or statutory authority.</li> <li>• Need to consider interaction with emergency access legal rights, such as for restoration of electricity.</li> <li>• Clarity sought on intersection with disease outbreak in the <i>Phylloxera and Grape Industry Act 1995</i> (PGI Act).</li> <li>• Provisional support pending collaboration in preparing the drafting instructions to exclude declared weeds and vertebrate pests under <i>Landscape South Australia Act 2019</i> in regulations. Need to ensure the two Acts work in parallel.</li> <li>• Exclusion of weeds and pest animals managed under the <i>Landscape South Australia Act 2019</i>.</li> <li>• Would the proposed exclusion of weeds and pest animals also include their exemption from the general biosecurity duty?</li> </ul>

**Table A1.2 Prohibited and regulated declarations**

Bill provision	Stakeholder feedback
<b>Prohibited matter and dealings</b> <i>clauses 13-14, 43-44</i>	<ul style="list-style-type: none"><li>• Comment that there are no provisions in the Bill for ‘restricted matter’ and ‘permitted matter’. Tasmania has a precautionary approach whereby any matter or carrier that is not prohibited or permitted is by default a restricted matter.</li><li>• Should include antimicrobial resistant (AMR) organisms within scope of the draft Bill, to enable their surveillance.</li></ul>
<b>Regulated dealings</b> <i>clauses 14, 45</i>	<ul style="list-style-type: none"><li>• Query how this relates to the existing Plant Quarantine Standard. Will there be broader scope than what currently applies?</li><li>• Query whether this would include farming activities generally, which involves/uses biosecurity matter and carriers.</li><li>• Query Chief Executive (CE) discretion to determine what is a regulated dealing.</li><li>• The Bill needs to enable hive movement without unreasonable constraint or bureaucratic burden on horticulture businesses with pollination dependent industries.</li></ul>

**Table A1.3 Biosecurity duties**

Bill provision	Stakeholder feedback
<p><b>General biosecurity duty (GBD)</b> <i>clauses 15-18, 40-42</i></p>	<ul style="list-style-type: none"> <li>• Supportive of provision.</li> <li>• GBD may be too general in its wording for people (e.g. for growers, home gardeners) to understand how to comply. Specific, clear directions and guidelines will need to be given.</li> <li>• How will the GBD or other Bill provisions address biosecurity risks posed by unmanaged or abandoned orchards?</li> <li>• The GBD applies to everyone, not just producers. Success will require considerable education and sustained effort to regulate compliance. For enforcement, specifics will be needed on what constitutes reasonable awareness and is reasonably practicable.</li> <li>• Third parties accessing farming lands (e.g. renewable energy, mining exploration) should be required to take preventative biosecurity actions.</li> <li>• The biosecurity protocols of mineral explorers should be recognised.</li> <li>• E-commerce platforms should be subject to the GBD, where they deal in biosecurity matter.</li> <li>• Query ability to be charged for non-compliance with both the GBD and a specified biosecurity requirement for the same offence. [cl. 42]</li> <li>• Requirements of the <i>Phylloxera and Grape Industry Act 1995</i>, including vineyard registration, should be recognised as specified biosecurity requirements under the Biosecurity Act.</li> <li>• Need to consider mitigating circumstances that may prevent a person fulfilling their biosecurity duty (e.g. rendering assistance to another person in an emergency).</li> <li>• Need to consider a specific provision relating to the biosecurity risks of trespass, as introduced in Biosecurity Acts in other jurisdictions (e.g. Qld, NSW).</li> </ul>
<p><b>Duty to notify a biosecurity event</b> <i>clauses 15-18, 49-51</i></p>	<ul style="list-style-type: none"> <li>• Persons who receive 'second hand' intelligence about a biosecurity risk are not legally obliged to report it. [i.e. do not fit under subclauses (a) to (d) in 49(4)].</li> <li>• Potential for a legal/moral clash between a duty of participant confidentiality typically required under human research ethics and a researcher's duty to report a biosecurity event.</li> <li>• Clarity sought on whether a duty to notify is incumbent on the land holder or the mineral tenement holder.</li> <li>• Clarity sought on whether reporting in a 'professional capacity' relates only to roles that are directly related to biosecurity.</li> </ul>



**Table A1.4 Authorised persons**

Bill provision	Stakeholder feedback
<p><b>Chief Officers and their deputies</b> <i>clauses 23-25</i></p>	<ul style="list-style-type: none"> <li>• Need to clarify the qualifications required of a Deputy Chief Veterinary Officer (DCVO) when they are not a veterinary surgeon.</li> <li>• Propose the addition of a Chief Environmental Biosecurity Officer, as the Commonwealth Government has, to ensure there is specialist knowledge and balance applied in biosecurity matters affecting the environment.</li> <li>• Clarity sought on intersections with <i>Phylloxera and Grape Industry Act 1995</i> (PGI Act) regarding Vinehealth board members being authorised officers under a Biosecurity Act.</li> </ul>
<p><b>Authorised officers incl. powers</b> <i>clauses 26-33, 181, 223-241</i></p>	<ul style="list-style-type: none"> <li>• Need to clarify that SAPOL officers do not automatically become authorised officers due to the existing provision that they are fisheries officers under the <i>Fisheries Management Act 2007</i> (FM Act).</li> <li>• Resourcing implications for local government where council officers are appointed as authorised officers.</li> <li>• Support the use of industry personnel being appointed as authorised officers when needed. Can they be appointed outside of emergencies (e.g. for biosecurity programs or zones)? Such authorised officers will need appropriate training to work across sectors.</li> <li>• Need to be able to appeal the decision-making and powers of an authorised person. Need for property owners to be able to dispute any unfair or unnecessary use of power by authorised officers.</li> <li>• The Bill should specify the qualifications and attributes required of an authorised officer.</li> <li>• Potential ambiguity in determining whether a person has a 'reasonable excuse' to not comply with a requirement or direction of an authorised officer. [cl. 33]</li> <li>• A person being interviewed should also have the right to make a recording. [cl. 227]</li> </ul>
<p><b>Authorised analysts</b> <i>clauses 34, 261</i></p>	<p>[nil]</p>
<p><b>Delegations</b> <i>clause 39</i></p>	<ul style="list-style-type: none"> <li>• Potential for loss of Ministerial responsibility and accountability by delegating powers. Concern over powers of authority to delegate and amount of powers vested in Chief Officers.</li> <li>• Delegation of a function or power under the Act to a person or body does not require there to be suitable qualifications and no conflict of interest.</li> </ul>

**Table A1.5 Statutory corporations and Dog Fence**

Bill provision	Stakeholder feedback
<p><b>Establish statutory corporations by regulation</b> <i>clause 35, Sched. 1</i></p>	<ul style="list-style-type: none"> <li>• Questions the inclusion of this provision, given the likely rarity of new statutory corporations being created under the Act.</li> <li>• Need for clear guidelines and criteria for when and why committees are required of a board. [Sched. 1 cl. 8]</li> </ul>
<p><b>Establish Dog Fence Board in Act</b> <i>clause 36, Sched. 1-2</i></p>	<ul style="list-style-type: none"> <li>• Should not require that Dog Fence Board appointments need to be Gazetted.</li> </ul>
<p><b>Dog Fence Board</b> <i>Sched. 2 clauses 1-8</i></p>	<ul style="list-style-type: none"> <li>• Need to include a definition for a ‘dog-proof’ fence.</li> <li>• Seeks to have the chairs of all local dog fence boards and a representative from the privately owned fence as members of the Dog Fence Board.</li> </ul>
<p><b>Provisions as to dog fences</b> <i>Sched. 2 clauses 9-17</i></p>	<ul style="list-style-type: none"> <li>• Need to require consultation with both the occupier of land and the owner/s of a fence (where different) in making a Ministerial decision on declaring a dog fence.</li> </ul>
<p><b>Financial provisions</b> <i>Sched. 2 clauses 18-25</i></p>	<ul style="list-style-type: none"> <li>• Should formally recognise Sheep Industry Fund (SIF) contributions in the Bill as Board income to be matched by government.</li> <li>• Should require a similar process of consultation and Ministerial approval for the charging of occupiers of land outside the dog fence that use it as a boundary fence, as for that which applies to declaring rates on ratable land inside the fence. Include, by regulation, the setting of a maximum amount per kilometre for charging occupiers of land outside the dog fence.</li> </ul>
<p><b>Local dog fence boards</b> <i>Sched. 2 clauses 26-27</i></p>	<ul style="list-style-type: none"> <li>• Should not require that local dog fence board appointments need to be Gazetted.</li> </ul>
<p><b>Other related matters</b> <i>Sched. 2 clauses 28-32</i></p>	<ul style="list-style-type: none"> <li>• Need to clarify the burden of proof relating to a ‘lawful excuse’ for fence damage.</li> <li>• Need to include employer liability where a person damages the dog fence in the course of their employment.</li> </ul>

**Table A1.6 Traceability and market access**

Bill provision	Stakeholder feedback
<p><b>Quarantine stations</b> <i>clause 37</i></p>	<ul style="list-style-type: none"> <li>• Questions whether a farm could be made a quarantine station?</li> </ul>
<p><b>Manifests, propagation material, packaging and labelling</b> <i>clauses 46-48</i></p>	<ul style="list-style-type: none"> <li>• Queried practicality of manifest requirements for interstate winegrape consignments during harvest season.</li> </ul>
<p><b>Biosecurity registration</b> <i>clauses 52-74</i></p>	<ul style="list-style-type: none"> <li>• Disparities between state jurisdictions for costs borne by industry in the implementation of the NLIS.</li> <li>• Potential to require insurance as a condition of registration with regards to the regulated dealing. Could this be a financial barrier to industry? [cl. 64]</li> <li>• PIRSA should use the existing <i>Phylloxera and Grape Industry Act 1995</i> register of all persons who own vineyards (of 0.5 ha or more), rather than set up a parallel registration system. [if grapevine growing was to become a regulated dealing]</li> </ul>
<p><b>Identification codes</b> <i>clause 75</i></p>	<ul style="list-style-type: none"> <li>• Supportive. But need to consider using existing systems (e.g., GS1) rather than PIRSA creating its own ID code scheme.</li> <li>• Bill lacks detail on identification codes. For example, how and why they would be used?</li> <li>• Expectation for proper consultation of specific commodity sectors with regards to identification codes, including considerations of cost and regulatory burden on individuals.</li> <li>• How would this relate to existing vineyard registrations and identification under the <i>Phylloxera and Grape Industry Act 1995</i>?</li> <li>• Concern about the repeal of the <i>Brands Act 1933</i> as a means for livestock identification.</li> </ul>
<p><b>Accreditation authorities</b> <i>clauses 76-98</i></p>	<ul style="list-style-type: none"> <li>• Supportive of provision.</li> <li>• Third party operators will need to have suitable experience, knowledge and qualifications. Risk of relying on poorly skilled individuals in emergency situations.</li> <li>• Notes the resourcing requirement on PIRSA for approvals and oversight. Need to ensure there are no conflicts of interest between accreditation authorities and appointed auditors or accredited certifiers.</li> <li>• Notes the interaction with the nursery approval function of Vinehealth under the <i>Phylloxera and Grape Industry Act 1995</i>.</li> </ul>

<p><b>Biosecurity audits</b> <i>clauses 99-123</i></p>	<ul style="list-style-type: none"> <li>• Recommends that a biosecurity audit frequency policy is transparent, subject to industry consultation and periodically reviewed. [cl. 117]</li> <li>• Possibility of audit fees being unreasonable with regards to cost recovery imposed by a third party auditor, including differential fees for remote or rural situations with increased travel requirements. [cl. 112, 120]</li> <li>• Will audit fees be waived by government during emergencies?</li> <li>• Support auditing of high risk premises.</li> <li>• Support the use of third party auditors, which can bring cost efficiencies where they are also accredited to audit other industry schemes in the same visit.</li> </ul>
<p><b>Biosecurity certificates</b> <i>clauses 124-131</i></p>	<ul style="list-style-type: none"> <li>• Capacity to have optional 'to' and 'from' dates on certificates, noting that some existing plant biosecurity certificates do not require these. [cl. 125]</li> <li>• Cost implications of ability to require insurance as a condition of accreditation as a biosecurity certifier. [cl. 91]</li> </ul>

**Table A1.7 Orders, zones, directions and permits**

Bill provision	Stakeholder feedback
<p><b>Biosecurity zones</b> <i>clauses 159-168</i></p>	<ul style="list-style-type: none"> <li>• No scope to appeal the locations within a biosecurity zone and/or its conditions.</li> <li>• Consultation requirements to establish a biosecurity zone should include other Ministers and the intersections with their respective Acts.</li> <li>• Oppose a person having to change their land management practices to comply with the requirements of a biosecurity zone.</li> </ul>
<p><b>Emergency orders</b> <i>clauses 169-181</i></p>	<ul style="list-style-type: none"> <li>• Emergency powers should be in alignment with other SA legislation (e.g. <i>Public Health Act 2011</i>) and be subject to appropriate checks and balances in the exercise of these powers, including Ministerial responsibility, scope and timeframes.</li> <li>• Potential for clearance of vegetation protected under the <i>Native Vegetation Act 1991</i> or destruction of native wildlife protected under the <i>National Parks and Wildlife Act 1972</i>, under a biosecurity zone, emergency order or control order.</li> <li>• Councils should be able to recover their reasonable costs from the State Government in relation to a biosecurity emergency.</li> <li>• Consider escalation to and de-escalation from emergency declarations under the <i>Emergency Management Act 2004</i>.</li> <li>• Clarity sought over who manages and funds emergency responses on Aboriginal lands. More broadly, how will biosecurity capacity be supported on such lands and in co-managed parks?</li> </ul>
<p><b>Control orders</b> <i>clauses 182-193</i></p>	<ul style="list-style-type: none"> <li>• Questions whether caveats are placed on specific properties under control orders (and emergency orders), so that future purchasers are made aware?</li> <li>• Recommends exemptions for biosecurity zones, emergency orders and control orders to access essential infrastructure for maintenance, project or emergency works.</li> <li>• Clarify whether biosecurity zones, emergency orders and control orders apply to council lands and roads.</li> </ul>
<p><b>General biosecurity direction</b> <i>clauses 194-198, 203-208</i></p>	<p>[nil]</p>
<p><b>Individual biosecurity direction</b> <i>clauses 194-196, 199-208</i></p>	<ul style="list-style-type: none"> <li>• Preparation of an individual biosecurity direction should include consultation and negotiation with the individual.</li> <li>• Are there adequate consultation and appeal processes in the Bill? There is potential for significant economic losses to a business in having to comply with such a direction.</li> </ul>



<p><b>Permits</b> <i>clauses 132-151</i></p>	<ul style="list-style-type: none"> <li>• A pre-emptive permit should be provided to exempt persons attending an electricity emergency from specified biosecurity requirements.</li> <li>• Need for consultation with affected parties in determining conditions on a permit and any subsequent variation to the permit.</li> <li>• Impacts on Aboriginal cultural species or sites should be grounds for suspending or cancelling a permit.</li> <li>• Potential for use of permits to undermine emergency orders.</li> <li>• Opposed to a potential insurance requirement for permits whereby the types of conduct or actions to be indemnified by the insurance have to be specified. [cl. 142]</li> <li>• How will fees for permits be determined? Inequity between small and large businesses on capacity to pay permit fees.</li> </ul>
<p><b>Ministerial exemptions</b> <i>clause 300</i></p>	<ul style="list-style-type: none"> <li>• A permanent Ministerial exemption from the requirements of a Biosecurity Act should be provided for essential service providers, such as electricity entities.</li> <li>• This is a broad Ministerial power that could be used for political purposes.</li> </ul>

**Table A1.8 Programs and agreements**

Bill provision	Stakeholder feedback
<p><b>Biosecurity programs</b> <i>clauses 152 -157</i></p>	<ul style="list-style-type: none"> <li>• Oppose. Concerns over cost-shifting government expenditure on biosecurity to industry. Industries already pay various national biosecurity levies. Government can invest in programs now without this provision.</li> <li>• Supportive of concept, but query whether there is a budget for such programs.</li> <li>• Transparent and broad industry consultation would be required before a program could be imposed by the Minister. Need to take account of existing programs.</li> <li>• With regards to funding future biosecurity programs or activities, the Bill should specify the process for any introduction of a new levy on industry, including mandatory stakeholder consultation.</li> <li>• Seeks clarity that this provision would include Aboriginal Rangers or Native Title bodies to be involved and/or consulted.</li> <li>• Can the governance of programs be simplified by not having a requirement for a management committee, and not requiring the CE to be on this committee?</li> <li>• Whilst a biosecurity program’s management plan can include reimbursement (for destruction of animal, plant or other property) it does not seem to allow for compensation and/or other commercial terms.</li> <li>• Clarify whether government is to wholly fund reimbursement for destruction in government biosecurity programs.</li> <li>• Need to include a requirement that program outcomes are regularly reported to industry.</li> </ul>
<p><b>Biosecurity control agreements</b> <i>clause 158</i></p>	<ul style="list-style-type: none"> <li>• Oppose the CE imposing a biosecurity control agreement on a property owner without consultation and no means to object.</li> <li>• Need to include consultation with any easement holders in developing a biosecurity control agreement for any premises.</li> </ul>
<p><b>Reimbursement and compensation</b> <i>clauses 209-217</i></p> <p>(see also ‘Biosecurity programs’)</p>	<ul style="list-style-type: none"> <li>• Compensation for loss under a biosecurity order is at the Minister’s discretion. Material loss of income or economic value for a business in a biosecurity response, where no fault of their own, should be in scope for compensation. This includes losses of high value animals such as breeding stock.</li> <li>• Supportive of the provisions.</li> <li>• Should concurrently review the disease compensation mechanisms under the <i>Primary Industry Funding Scheme (Cattle Industry Fund) Regulations 2015 (Cattle PIFS Regulations)</i> to provide greater clarity of these arrangements.</li> </ul>

**Table A1.9 Specific biosecurity matters**

Bill provision	Stakeholder feedback
<p><b>Offence to release agent to cause harm</b> <i>clauses 242-246</i></p>	<ul style="list-style-type: none"> <li>• Support the inclusion of this offence and associated strong compliance action.</li> <li>• Should include a provision for release without intent to harm (e.g. ornamental fish release) or release of a potential biocontrol agent without approval.</li> <li>• Concern about the phrase ‘without lawful excuse’ being sufficient to stand in court.</li> </ul>
<p><b>Management of stray stock</b> <i>clauses 280-281</i></p>	<ul style="list-style-type: none"> <li>• Support the Bill’s simpler replacement of the <i>Impounding Act 1920</i>.</li> <li>• Limits should be placed on councils’ obligations to manage stray stock on their land.</li> <li>• Concern that a council officer would not be able to make an informed decision on whether stray stock on council land poses a biosecurity risk. Propose that this decision is deferred to PIRSA.</li> </ul>
<p><b>Biosecurity advisory groups</b> <i>clause 296, Sched. 4</i></p>	<ul style="list-style-type: none"> <li>• The Bill should enable the Minister to establish an independent scientific biosecurity advisory group for the Act’s administration.</li> <li>• Supportive of having advisory groups.</li> <li>• Need for specific criteria/guidelines on when advisory groups are established and how they will be resourced. They should not duplicate the work of other existing groups or organisations.</li> <li>• Questions why there is an arbitrary number of up to 9 members for an advisory group.</li> </ul>

**Table A1.10 Compliance processes**

Bill provision	Stakeholder feedback
<p><b>General comments on compliance</b></p>	<ul style="list-style-type: none"> <li>• Enforcement of clear and timely deterrence measures and penalties for biosecurity risks is imperative in upholding the integrity of our biosecurity framework.</li> <li>• The success of biosecurity is compliance, and resources must be available for the necessary compliance activities.</li> <li>• Supports strong compliance against intentional breaches of a new Biosecurity Act. Encourages appropriate resourcing to enable compliance, enforcement and prosecution activities</li> </ul>
<p><b>Internal and external review</b> <i>clauses 218-222</i></p>	<ul style="list-style-type: none"> <li>• Need to ensure consistency between Part 5 (Registrations) and Part 13 (Review), in terms of right to review a decision</li> <li>• It is not clear why only some internal review decisions are reviewable externally through SACAT.</li> <li>• There is no scope to review an emergency order, control order or general biosecurity direction (noting in particular that orders can be property specific).</li> </ul>
<p><b>Offences generally</b> <i>clauses 21, 247-258</i></p>	<ul style="list-style-type: none"> <li>• Concern that the continuing offences penalty, applying before a conviction for the offence, is intimidatory and does not allow for objecting or questioning as to whether the offence has occurred. [cl. 252]</li> </ul>
<p><b>Evidentiary provisions</b> <i>clauses 259-265</i></p>	<ul style="list-style-type: none"> <li>• Disagree with ‘In any legal proceedings, evidence that a hive was found on specified premises is evidence that the bees were kept by the occupier of those premises’. This ignores wild hives. It also ignores bee keepers keeping their hives on another person’s property by private agreement. [cl. 265]</li> </ul>
<p><b>Court orders</b> <i>clauses 266-275</i></p>	<p><i>[nil]</i></p>
<p><b>Maximum penalties throughout the Bill</b> <i>various clauses</i></p>	<ul style="list-style-type: none"> <li>• The fines are excessive.</li> <li>• The fines seem very lenient for big corporations.</li> <li>• Support penalties that deter people from taking biosecurity risks. Penalties need to reflect the potential impacts of a biosecurity breach to industries, especially if they are intentional.</li> </ul>
<p><b>Miscellaneous clauses</b> <i>284-286, 288-289, 291, 293</i></p>	<ul style="list-style-type: none"> <li>• No specific provision has been made for an employer or principal not being liable where the employee has acted contrary to directions given to that employee specifically or any employee more generally. [cl. 249, 285]</li> </ul>
<p><b>Recovery of costs</b> <i>clauses 294, 297</i></p>	<ul style="list-style-type: none"> <li>• Opposition to any new fees or levies.</li> </ul>

**Table A1.11 Specific powers**

Bill provision	Stakeholder feedback
<p><b>Additional emergency powers</b>  <i>clauses 175-178, 201, 229-232</i></p>	<ul style="list-style-type: none"> <li>• Support for continuation of the emergency powers achieved within the recent additions to the <i>Livestock Act 1997</i>.</li> <li>• No person should be subject to detention, inspection or treatment against their will.</li> <li>• Powers to immediately enter premises where acting ‘in case of an emergency’ should only be where there is an actual emergency.</li> </ul>
<p><b>Reasonable suspicion</b>  <i>clauses 276-278</i></p>	<ul style="list-style-type: none"> <li>• Opposed to entry to property based on a ‘reasonable suspicion’ without substantive facts.</li> <li>• Concern over ability of Chief Officers and authorised officers to take action based on ‘reasonable suspicion’ that a serious risk exists, without having to wait for scientific confirmation.</li> </ul>
<p><b>Use of warrants</b>  <i>clauses 168, 203, 208, 235</i></p>	<p><i>[nil]</i></p>
<p><b>Interaction with other Acts</b>  <i>clauses 20, 167, 178, 204, 240, 292</i></p>	<p><i>[nil]</i></p>
<p><b>Use of 'suitable person' in decision-making</b>  <i>clauses 11, 26, 54, 59, 70, 82, 87, 93, 136, 140, 147, 299, Sched. 4 clause 1</i></p>	<p><i>[nil]</i></p>
<p><b>Use of 'reasonably practicable' in decision-making</b>  <i>clauses 18, cl 40, 49, 166, 190, 203, 238</i></p>	<ul style="list-style-type: none"> <li>• Concern over subjectivity when determining what is ‘reasonably practicable’.</li> </ul>
<p><b>Decision to destroy</b>  <i>clauses 166, 176, 190, 203-204, 238-240, 273, 280-281</i></p>	<ul style="list-style-type: none"> <li>• Nothing should be destroyed unless it is actually proven to be prohibited matter - not just reasonably suspected of being.</li> </ul>



**Entry to residential premises**

*clause 3 definition, 162, 207, 231*

*Regulations, notices and instruments clause 282, 301, Sched. 5*

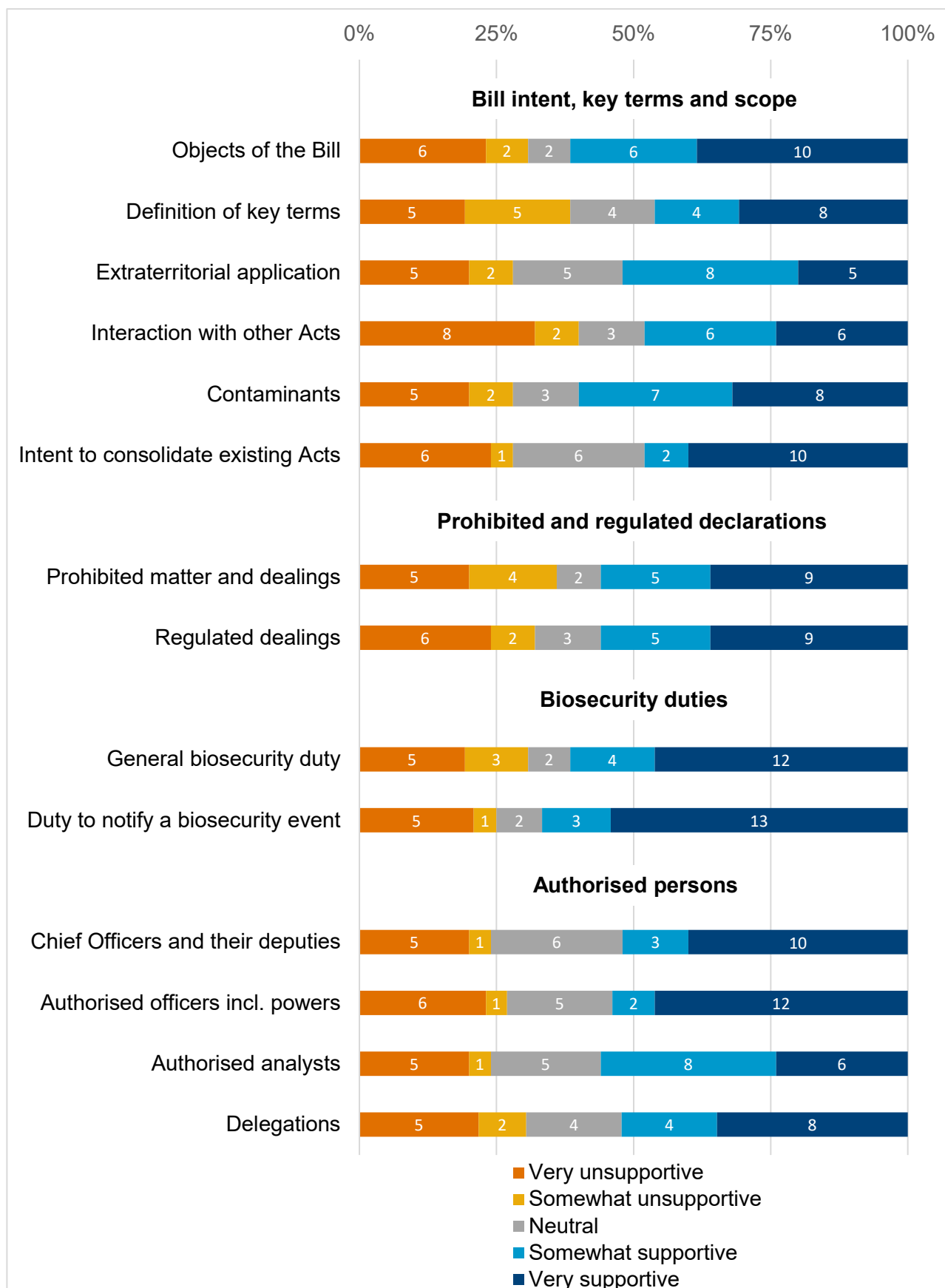
- Should not be permitted without a court order or warrant.
- Oppose entry to residential premises

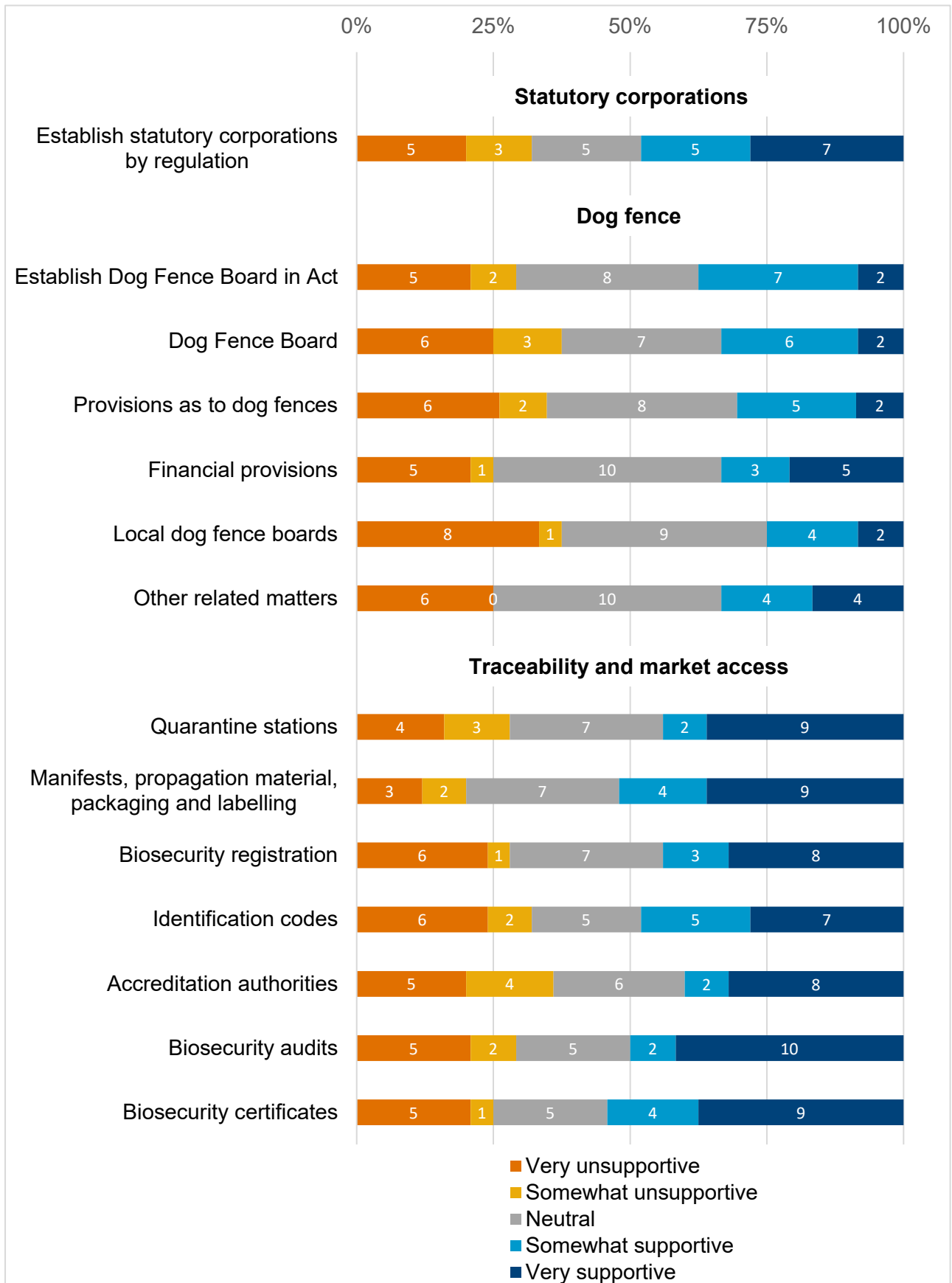
**Table A1.12 Miscellaneous administration**

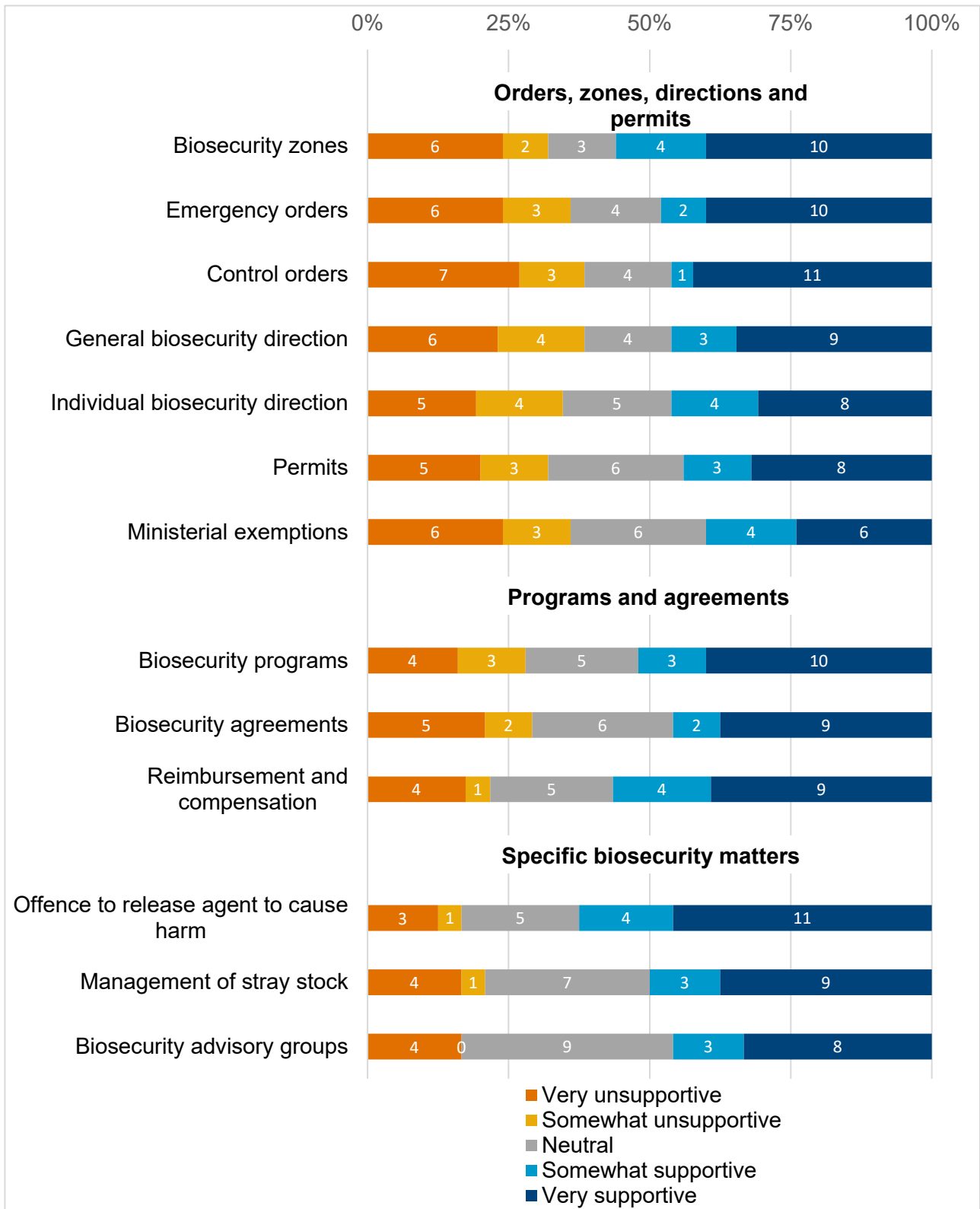
Bill provision	Stakeholder feedback
<p><b>Register, disclosure of information</b> <i>clauses 38, 290</i></p>	<ul style="list-style-type: none"> <li>• The rationale for disclosing personal health information has not been made clear. This is not a public health act.</li> <li>• Need to consider regulations with regards to data sharing between government departments, including identifiable information of persons.</li> </ul>
<p><b>Use of technologies</b> <i>clause 298</i></p>	<ul style="list-style-type: none"> <li>• Where a computer has been used to make a decision which becomes the basis of a direction or order on a person, then that person must have the right to request that data or information and justification for the actions taken.</li> <li>• Care needs to be exercised that this does not translate into an over-reliance, or an over-trust, in artificial intelligence algorithms without human oversight. Human judgement should remain paramount.</li> </ul>
<p><b>Other miscellaneous</b> <i>clauses 1-2, 279, 287, 295</i></p>	<p><i>[nil]</i></p>
<p><b>Regulations</b> <i>Sched. 5</i></p>	<ul style="list-style-type: none"> <li>• Need to work closely with industry in developing the regulations</li> </ul>

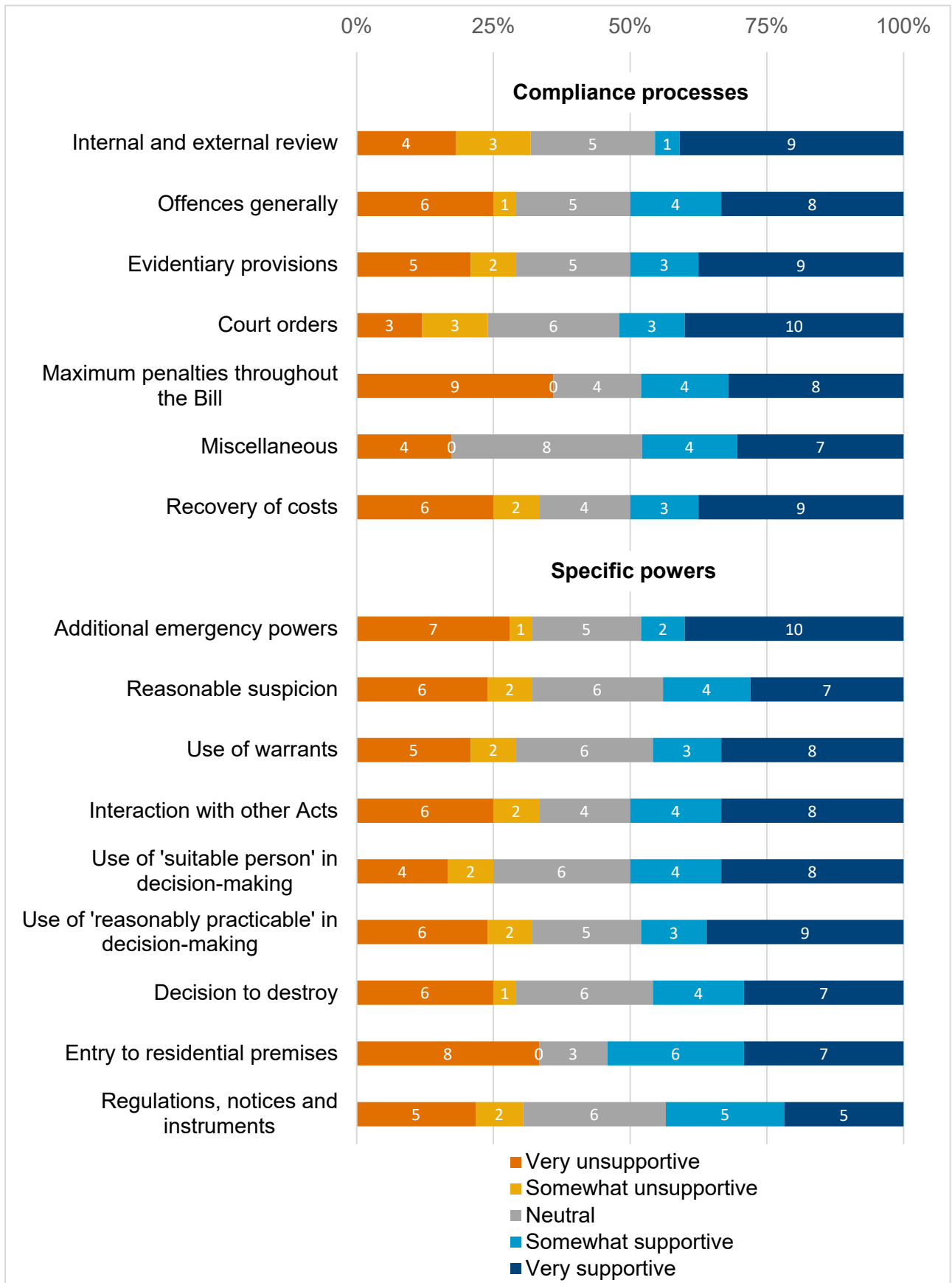
## Appendix 2 — Survey ratings received

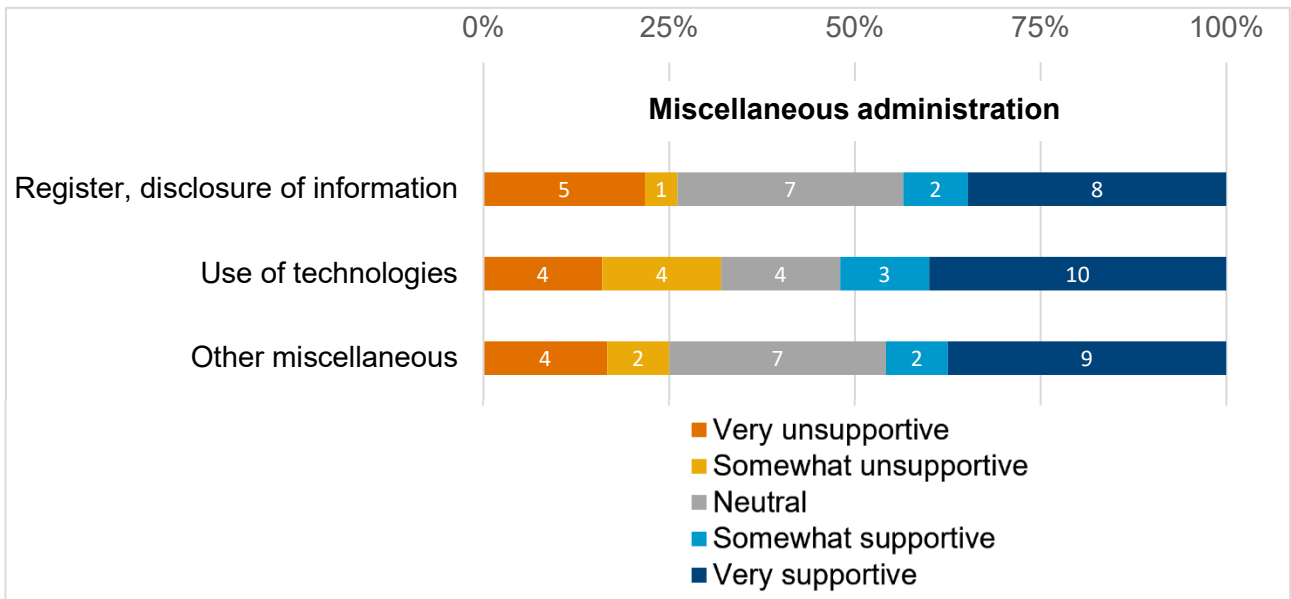
The following graphs are combined ratings data of organisations (9) and individuals (17) from the YourSAy survey.















**Government  
of South Australia**

Department of Primary  
Industries and Regions