



9 APRIL 2024

Agriculture (Biosecurity Protection) Levies Bill 2024 [Provisions] and Related Bills

Submission to the Rural and Regional Affairs and Transport Legislation Committee
on behalf of Freight & Trade Alliance (FTA) and the Australian Peak Shippers
Association (APSA)

“KEEPING AUSTRALIA’S INTERNATIONAL TRADE MOVING”



Australian Peak Shippers
Association Inc. (APSA)

ABOUT THE ALLIANCE

Freight & Trade Alliance (FTA) is the peak body for the international trade sector with a vision to establish a global benchmark of efficiency in Australian biosecurity, border related security, compliance, and logistics activities.

FTA represents more than 500 businesses including Australia's leading customs brokerages, freight forwarders and major importers.

On 1 January 2017, FTA was appointed the Secretariat role for the Australian Peak Shippers Association (APSA). APSA is the peak body for Australia's containerised exporters and importers under *Part X of the Competition and Consumer Act 2010* as designated by the Federal Minister of Infrastructure, Transport, Regional Development and Local Government.

APSA is also a member and has board representation on the Global Shippers Forum (GSF) that represents shippers' interests and that of their national and regional organisations in Asia, Europe, North and South America, Africa and Australasia.

FTA / APSA also provide international trade and logistics advocacy support to the following associations:

- Australian Cotton Shippers Association;
- Australian Council for Wool Exporters and Processors;
- Australian Dairy Products Federation;
- Australian Horticulture Trade;
- Australian International Movers Association;
- Australian Meat Industry Council;
- Australian Steel Association;
- Grain Trade Australia; and
- Tyre Stewardship Association.

The current APSA Officers and Committee of Management are listed below:

- Olga Harriton (Manildra Group) - APSA Chair
- Brian Thorpe (Visy) - APSA Vice Chair
- Flaminio Dondina (Casella) - Treasurer
- Paul Zalai - APSA Secretary
- Sarah Granger (Fletcher International Exports)
- Billy Davies (Australian Meat Industry Council)
- Brian Wright (Australian International Movers Association)
- Michael Lamperd (Norco Co-operative Limited)
- Mark Christmas (QMAG)
- Michael Brittain (AGT Foods Australia)

A list of all members and further information about FTA / APSA is available at www.FTAlliance.com.au

NOTE: FTA / APSA accepted an invitation from The Hon. Murray Watt (Minister for Agriculture, Fisheries and Forestry) to join the newly created Sustainable Biosecurity Funding Advisory Panel¹ – further detail about the alliance's activities and member directory is available at www.FTAlliance.com.au

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¹ Ministerial Media Release - [New Sustainable Biosecurity Funding Advisory Panel locks in transparency](#)

EXECUTIVE SUMMARY

The Department of Agriculture, Fisheries and Forestry (DAFF) use labour intensive processes with biosecurity officers physically assessing import documentation and selecting consignments for further treatment or inspection on a set criterion for inspection.

It is an outdated system unable to keep pace with increases and changing patterns of international trade. As became evident in Senate Estimates 13 March 2024, DAFF are unable to recruit and train staff quick enough to keep up with demand. Despite the best efforts of management and existing frontline officers, industry is paying a heavy price.

This is causing significant delays for importers to gain release of cargo resulting in breaches to commercial contractual arrangements, adding to storage costs and generating exorbitant container detention fees administered by and payable to foreign owned shipping lines.

Making matters worse, stevedores and empty container parks are ramping up their 'ransom model' forcing transport operators to pay designated fees or be denied access to container collection and dispatch facilities. It is not sustainable for our exporters and importers to absorb this rapidly increasing impost of hundreds of millions of dollars annually whereby they cannot influence service or price.

The scourge of these Terminal Access Charges (TACs), combined with the biosecurity processing delays, is resulting in rapidly escalating supply chain costs directly adding to inflationary pressures and fueling the cost-of-living crisis.

Freight & Trade Alliance (FTA) and the Australian Peak Shippers Association (APSA) acknowledge that DAFF is co-designing solutions with industry and notes the significant financial commitment from the federal government to modernise systems.

These longer-term strategies have the potential to set a benchmark of global best practice in safeguarding against biosecurity risk whilst enabling legitimate trade. Whilst applauding and supporting these initiatives, the federal government must introduce immediate relief measures.

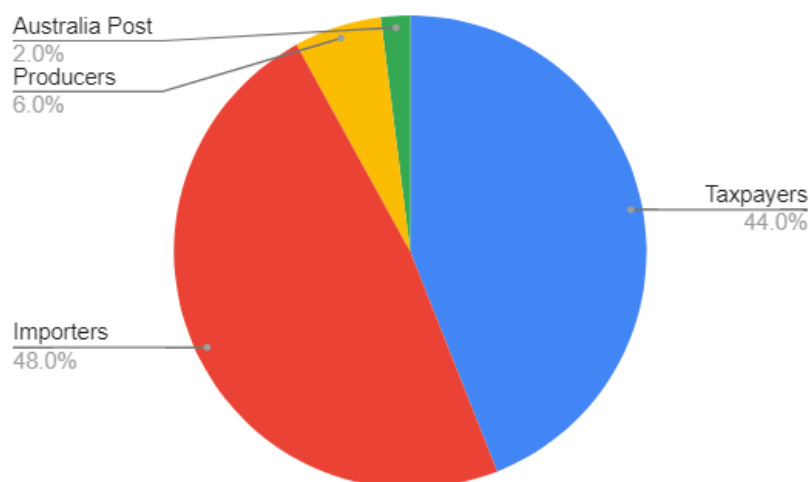
FTA and APSA fully support the need to protect against biosecurity risks and would be prepared to pay an additional levy or cost recovery fee on the proviso that an appropriate proportion directly translates to commensurate improved and immediate trade facilitation measures.

FTA and APSA have engaged with members and key industry stakeholders in developing the following **3-point plan**, recommending the federal government:

1. does not proceed with the complex proposed levy against producers (\$47.5m being 6% of the budgeted Biosecurity Protection Levy);
2. increase the Full Import Declarations (FID) cost recovery to recoup the above \$47.5m shortfall, and additional funds to address interim remedial action to support import processing until additional permanent resources and benefits of modernised systems are realised; and
3. offset the increased FID cost recovery impost on importers, by regulating against the current incontestable Terminal Access Charge (TAC) regime, currently costing importers and exporters more than \$500m per annum.

2023-24 BUDGET ANNOUNCEMENT

As announced in the 2023-24 Federal Budget, a need was identified for "sustainable funding" that goes directly to strengthening Australia's biosecurity system. The intent was for this to be paid for on a "shared responsibility" basis taking total revenue from \$536.2m to \$804.6m². By 2024-25, it is proposed contributions will be made as follows:



The "new and permanently increased funding" will contribute towards:

- providing \$845m over four years from 2023-24, and \$255m per year ongoing from 2027-28, to maintain biosecurity policy, operational and technical functions on a sustainable basis;
- \$40.6m over four years from 2023-24, and \$12m per year ongoing from 2027-28, for the Indigenous Ranger Biosecurity Program; and
- \$145.2m over three years from 2023/24 for the Simplified Targeting and Enhanced Processing System (STEPS) being a modern digital system to improve the effectiveness and efficiency of biosecurity clearance in cargo pathways.

OBJECTION FROM PRODUCERS

During Senate Estimates on 13 February 2024³, The Hon. Murray Watt (Minister for Agriculture, Fisheries and Forestry) announced a revised model of agricultural commodity contributions to be paid towards the broader Biosecurity Protection Levy (BPL).

Public statements from producer groups have been mixed, with some seemingly accepting the changes that now spreads the contribution base across all industry sectors (in contrast to the previous model that added a 10% fee on existing statutory 2020-21 levy rates) whilst many others, such as the National Farmers Federation⁴, have strongly objected to its introduction.

² [DAFF Budget 2023-24 Sustainable funding for a strong biosecurity system](#)

³ [Senate Estimates \(Rural and Regional Affairs and Transport Legislation Committee\)](#)

⁴ [NFF media release – Producers remain opposed to Biosecurity Levy](#)

CONTRIBUTION FROM IMPORTERS

In line with the 2023-24 budget announcements, the Department of Agriculture, Fisheries and Forestry (DAFF) adjusted Approved fees and charges for biosecurity and imported food regulatory activity on 1 July 2023. This included a \$5 increase in both air and sea Full Import Declarations (FIDs).

By way of background, FIDs are used to clear goods valued over \$1,000 into Australia. It provides details of the cargo, its journey and entities involved. FIDs may only be lodged by the importers or a licensed customs broker. The FID is used to pay duties and taxes on the declared goods.

FIDs (at the time called import entries) were first used as a method to collect government cost recovery following the 1996–97 Federal Budget when introduced by the Australian Border Force (ABF) (at the time called the Australian Customs Service).

DAFF have also used FIDs as a means of cost recovery over the last two decades with current cost recovery reflected below:

| DAFF FID Cost Recovery | |
|---|-------|
| AIR (consignment value more than \$1,000) | \$ 43 |
| SEA (consignment value more than \$1,000) | \$ 63 |
| Australian Border Force (ABF) FID Cost Recovery | |
| AIR / SEA / POST (consignment value between \$1,000 and \$10,000) | \$ 50 |
| AIR / SEA / POST (consignment value more than \$10,000) | \$152 |

The other significant 2023-24 budget announcement was the introduction of a new cost recovery charge on low value (\$1,000 or less) goods imported into Australia by air and sea, effective 1 July 2024.

It is anticipated that the new low value import charge will raise \$27.1m in addition to the existing \$363.6m fees and charges, hence contributing 48% of the total BPL as outlined in the chart on page 4.

A NEED FOR IMPROVED SERVICE LEVELS FOR IMPORTERS

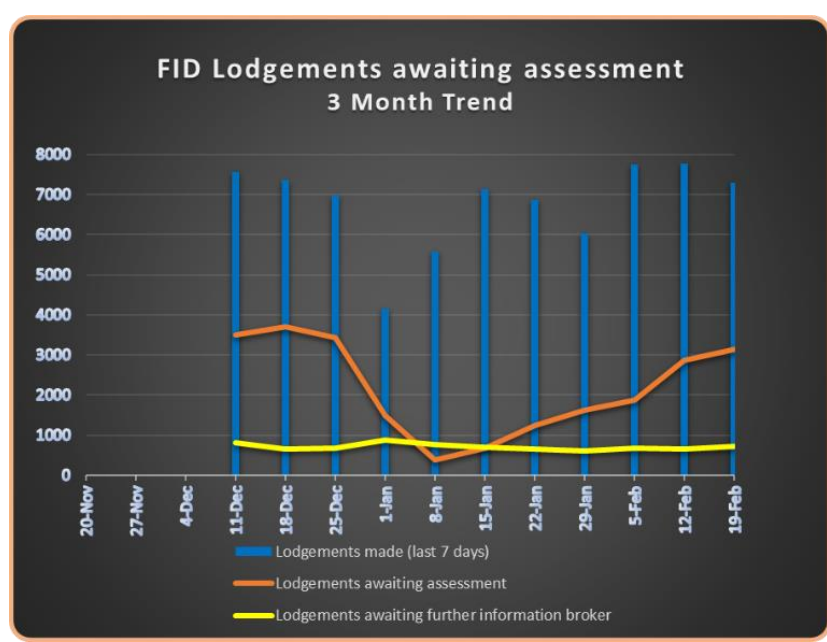
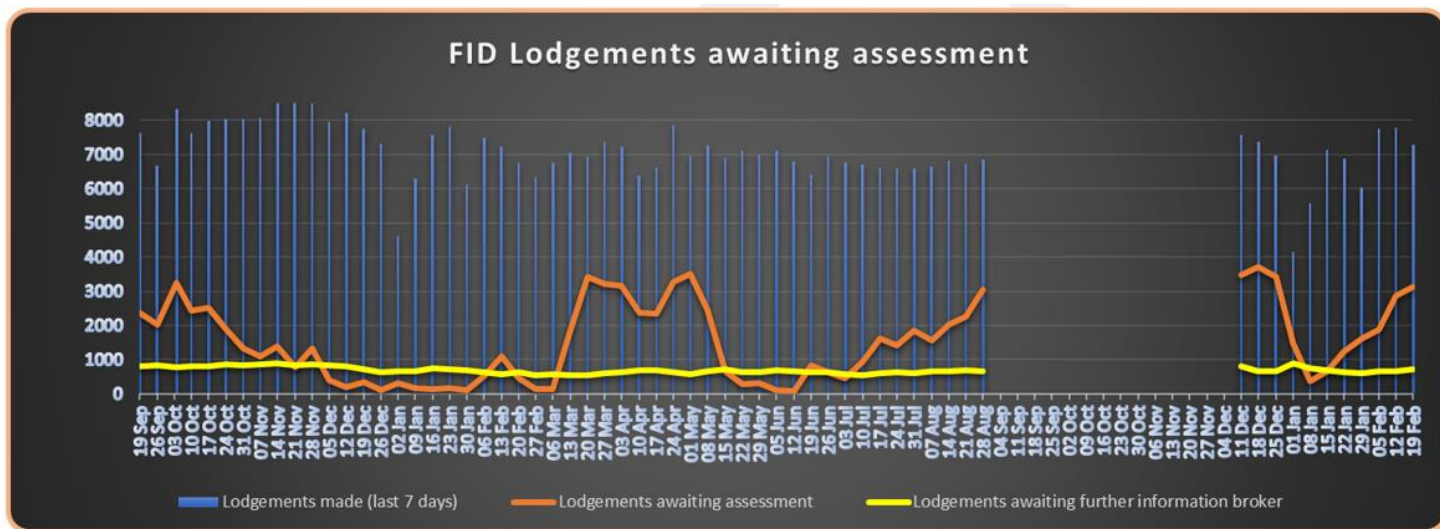
As outlined in an independent report completed by the Inspector-General of Biosecurity (IGB) in February 2021, the biosecurity system was identified then as not being in an adequate position to address the diverse and evolving biosecurity risks and business environment expected to prevail through to 2025. *“This assessment is based on an examination of the systemic problems, including the department’s regulatory maturity, its approach to coregulation, inadequate frontline focus, and the absence of an appropriate funding model.”*

FTA and APSA representatives met with Minister Watt in Canberra on 18 October 2023, reinforcing these failings as encapsulated in its 2022 Senate Inquiry submission⁵.

Discussion specifically focussed on ongoing fluctuating document assessment and inspection levels that significantly adversely impact importers in terms delays of cargo release, resulting in breaches in commercial contractual arrangements, adding to storage costs and generating significant container detention fees administered by and payable to foreign owned shipping lines.

⁵ [FTA / APSA submission - Senate Inquiry into the Adequacy of Australia's Biosecurity Measures](#)

Some four months later and of serious concern, Senate Estimates on 13 February 2024 revealed that DAFF have had difficulty in their recruitment of assessment officers resulting in acceptable service levels not being met. This outcome is reflected in the below charts indicating DAFF delays in document assessment.



NOTE: charts prepared by FTA using DAFF source data



An FTA member (licensed customs broker) supplied data on 29 February 2024 for a 100-day period highlighting their experience that 34% of consignments were processed by DAFF more than 5 business days after lodgement, with these mostly released on or after vessel arrival.

As well as the direct financial implications, these delays are causing confusion and angst amongst supply chain participants and is leaving customs brokers in the unenviable position of communicating the outcomes to frustrated client importers.

A NEED FOR INTERIM RELIEF MEASURES

DAFF use labour intensive processes with biosecurity officers physically assessing import documentation and selecting consignments on a set criterion for inspection. Acknowledging the inadequacies of current processes, FTA and APSA see merit in the federal government's position in allocating a significant proportion of the BPL (\$145.2m over three years from 2023/24) to introduce the Simplified Targeting and Enhanced Processing System (STEPS) initiative.

Until DAFF can deploy sufficient human resources and the benefits of STEPS are realised, existing officers need to increase their rate of output. Experience has shown that the only viable short to medium-term remedial solution is to deploy existing officers on a well-managed overtime basis.

IMPORTERS TO PAY MORE IN RETURN FOR REASONABLE SERVICE

FTA and APSA are proposing that the above referenced solution could be funded by increasing the rate of the FID. It is also an option for importers, as "risk creators" to absorb the BPL quantum proposed to be paid by producers (\$47.5m).

It is estimated that 4.2m FIDs will be completed this financial year⁶. Dividing \$47.5m by an estimated 4.2m FIDs equates to an extra \$11.50 per FID.

Importers could absorb this and potentially more (perhaps round up to \$15 per FID) to provide extra funds for DAFF officer overtime until additional resources and STEPS is deployed.

Precedent has been set with much larger previous increases. In May 2013, a significant increase in the Australian Customs Service cost recovery fee was announced, aiming to collect an additional revenue of \$674.3 million over 4 years.

On 1 January 2014 (for consignments valued over \$10,000) the cost recovery for FIDs (sea cargo) increased by \$102.60 to \$152.60 and FIDs (air cargo) increased by \$81.90 to \$122.10.

⁶ [Biosecurity Cost Recovery Arrangement- Cost Recovery Implementation Statement: 2023–24 \(Page 13\)](#)

DIFFERENTIAL CHARGE AGAINST IMPORTERS BASED ON RISK

Applying a levy against shipping lines, stevedores or other supply chain participants would be complex and likely to see cascading mark-ups to recover cash flow associated administration as the charge is passed through the supply chain.

The FID remains the most effective way for border agencies to administer cost recovery with importers paying at a net rate. Taxes (including Duty, Dumping Duty and GST) are produced on an official receipt along with “other charges” referring to both DAFF and ABF cost recovery.

The samples below show OTHER CHARGES as \$215 being (\$152 ABF and \$63 DAFF cost recovery):

```
***** E F T   O N L Y *****
*
* DUMPING DUTY                4703.04 *
* GST                        4234.92 *
* OTHER CHARGES              215.00 *
*
* TOTAL AMOUNT PAYABLE ***    9152.96 ***
*-----*
* OFFICIAL USE ONLY
*
* ..... / /
* SIGNATURE OF AUTHORIZING OFFICER  DATE
*-----*
* WARRANTED AND RECEIPTED:
*
*-----*
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***** E F T   O N L Y *****
*
* GST                        4444.69 *
* OTHER CHARGES              215.00 *
*
* TOTAL AMOUNT PAYABLE ***    4659.69 ***
*-----*
* OFFICIAL USE ONLY
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For expediency, a simple flat fee increase across all FIDs is a pragmatic solution. Using the above examples, should a \$15 FID cost recovery increase be implemented, the OTHER CHARGES would increase from \$215 to \$230.

Alternatively, a container levy could apply to the FID cost recovery with a differential fee payable based on number of containers reported against a FID.

Going forward, FTA and APSA recommend DAFF (and the ABF) further engage with industry to implement a differentiated cost recovery arrangement with those importers taking measures to minimise risk (including programs such as Safeguarding, Green Lane, Approved Arrangements and Australian Trusted Trader) to pay a lower FID cost recovery than those higher risk importers.

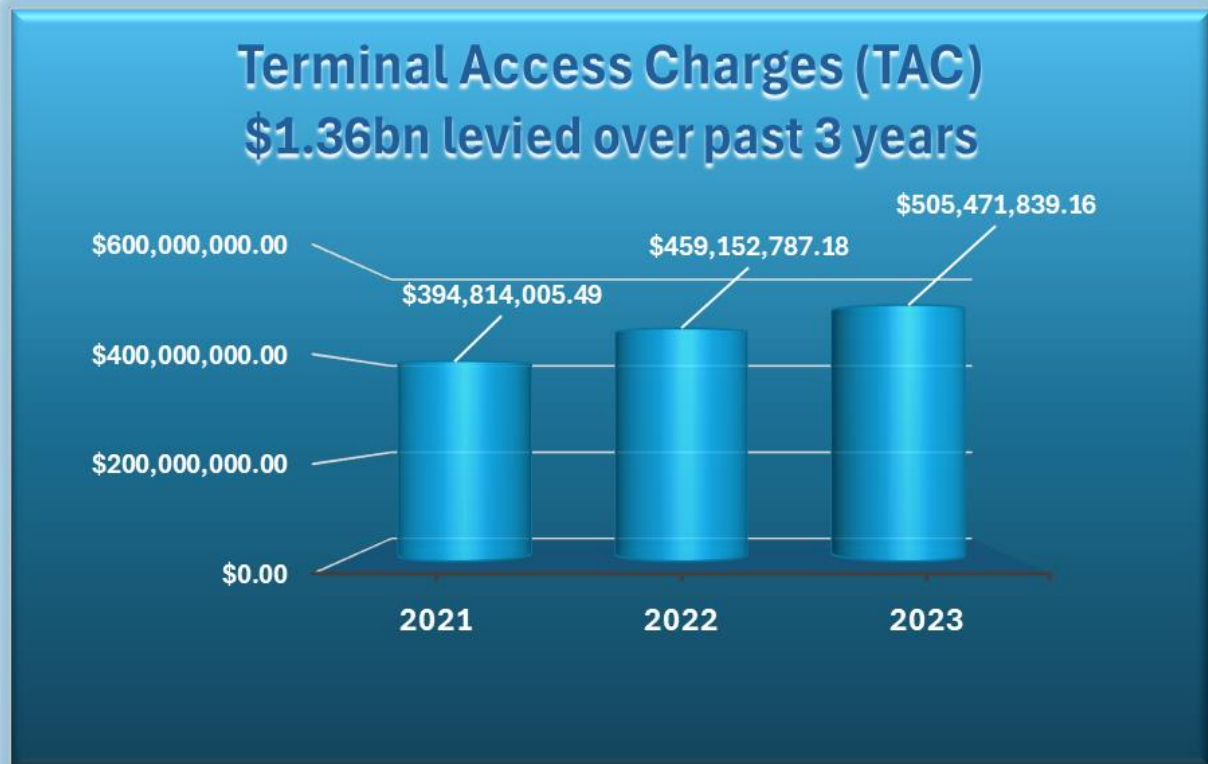
IMPORTERS MUST HAVE COSTS OFFSET BY OTHER REGULATION

It is evident from consecutive Australian Competition and Consumer Commission (ACCC) stevedore monitoring reports that shipping line consortia are benefitting from significantly reduced quayside charges administered by their contracted suppliers; savings that are not being passed on down the supply chain via reductions in Terminal Handling Charges.

With less quayside revenue, stevedores have resorted to a ‘ransom’ model forcing transport operators to pay Terminal Access Charges (TACs) or be denied access to container collection / dispatch facilities.

The existing voluntary arrangements established by the Victorian government and adopted by the National Transport Commission have proven to be futile, providing no ability for importers and exporters to influence price, and giving stevedores tacit approval to inflate fees rapidly and significantly.

Data collated by FTA reveals 1.36bn has been collected by stevedores in incontestable TACs over the last three calendar years [FTA is prepared to present this data to the senate committee as required].



FTA and APSA note that the Productivity Commission review of Australia’s Maritime Logistics System final paper⁷ released in December 2022, recommending a Mandatory Code with the ACCC to act as the pricing regulator with special provisions to keep stevedores highly accountable for any charges imposed on the landside logistics sector.

“Treasury should develop a mandatory container terminal operator code that would be administered and enforced by the ACCC.

The code should include that:

- *all landside fees should only be changed once a year, with container terminal operators required to simultaneously notify a regulator of planned changes*
- *the ACCC should have the authority to reject increases if it considers them to be unjustified*
- *if an increase is rejected, an operator cannot propose an alternative change in a charge*
- *the ACCC’s decision of whether an increase is justified should use 1 December 2022 as the baseline*

⁷ [Lifting productivity at Australia’s container ports: between water, wharf and warehouse \(Page 48\)](#)

- *the ACCC should collect any metrics it needs to form a view on whether proposed increases are reasonable, for example on the level of revenue raised by an operator from incentive-based fees and on landside performance (only metrics that do not reflect an operator's commercial position should be made public)*
- *there should be an annual report to transport ministers and the Treasurer which includes analysis of any unintended consequences of the regulatory regime*
- *consideration be given to any penalties that might be required to support enforcement of the obligations under the code*
- *The code should be evaluated after a period of five years by an independent body”*

This is a position supported by:

- the NSW Government position (and endorsed by an Independent Review⁸) that stevedore charges should be regulated at the national level, not by state jurisdictions individually; and
- the Victorian Minister for Ports to the Federal Minister for Infrastructure, Transport, Regional Development and Local Government⁹.

The federal government has a unique opportunity to offset the impost of any FID increase associated with the BPL by taking action to regulate TACs.

⁸ [Independent Review May 2023 - Ports and Maritime Administration Act 1995 and Port Botany Landside Improvement Strategy \(Page 144\)](#)

⁹ [Correspondence from The Hon Melissa Horne MP to FTA / APSA \(5 March 2024\)](#)