

## **Cherry Growers Australia Limited – Compliance with Levy Principles**

### **Is there a significant market failure in the industry?**

In 2010, the cherry industry experienced the largest failure in fresh cherry sales in its' history. This saw a renewed focus by the industry on new export markets. An increased focus on R&D activities as relating to new market access was seen.

Over time, the cherry levy has not been able to maintain coverage across all the R&D required to progress the industry's market access agenda.

The Cherry Export Working Group, a subcommittee of Cherry Growers Australia, was proposed by and elected by growers to assist steer the industry's market access focus and provide advice to CGA, industry, government and HAL (now Hort Innovation).

In 2016, the industry sought to change the levy to direct more funds to market access activities through a new levy proposal seeking to direct funds to the Peak Industry Body (Cherry Growers Australia). This proposal was developed by industry itself and then refined and workshopped across all growing regions by CGA in early 2016. The levy was majority supported by growers but was not passed by the minister.

This was put back to industry to consider next steps in 2017. Industry advised the increased focus on R&D needed to remain, especially in the light of the 2016/2017 harvest which saw reduced yields across Australia. This saw a levy shortfall for required R&D activity in 2017, which growers advised needed to be addressed.

A new proposal, which was a refining of the 2016 proposal, was developed. This new proposal was essentially a change to a 1c marketing and 6c R&D levy (less PHA and EPPR – if required – to be deduced from the R&D levy).

### **Does the proposed levy have majority support from potential levy payers?**

The levy proposal has been developed by the levy payers of the Australian cherry industry. This has been done via a lengthy review process originally commenced in 2014.

Consultation was advised to industry as commencing in 2014 – communicated to industry directly to members of CGA and members of state bodies – with submissions received up to August 2015 when the first discussion paper of levy options was presented to industry.

Feedback from the discussion paper was that of the levy options presented 'Option 2' was to be progressed. 'Option 2' is detailed below:

#### **Option 2 - Keep the levies but at the rates below :**

- 3.97 (Cents /Kilogram) for Research & Development that is matched \$ for \$ by the Australian Government up to a limit of 0.5 per cent of the gross value of production (GVP) for horticulture industries. The final decision on what is claimed for matching lies with HIAL;
- 0.03 (Cents /Kilogram) for Plant Health Australia Levy , that is not matched by the Australian government;
- 1.00 (Cents /Kilogram) for Marketing & Promotional activities, that is not matched by the Australian government; and

2.00 (Cents /Kilogram) collected as a voluntary levy by CGA, that is not matched by the Australia Government and can be used for activities the industry identifies it wants to spend as it collects it.

An initial proposal was finalised in October 2015 and this was communicated to Assistant Minister for Agriculture and Minister for Horticulture Anne Ruston. This proposal was communicated to the Minister to advise of the levy progression and seek feedback on the exemption that CGA would require to have 2c directed to it in the future.

The Minister wrote in a letter back to CGA dated 23 November 2015, the collection of levies for CGA would need to be done at a voluntary level as the current legislation would prohibit the compulsory collection to funds to go back to CGA directly to provide services to the Australian Cherry Industry.

In February 2016, industry was invited to a 2 day discussion on levies in Melbourne with the CGA board to discuss this communication and the future of levies for the industry.

The outcome of this event was to continue to seek the aforementioned levy option where 2c would be paid directly to the PIB. This would be an option on the levy ballot in 2016 with the current levy structure for consideration by growers.

These options were then taken around Australia for a levy vote discussion in early 2016. Levy workshops were held across growing regions in NSW, Qld, WA, SA, Vic and Tas. All growers on the CGA and state bodies (Fruit Growers Tasmania, Cherries SA, Fruit Growers Victoria and the Victorian Cherry Association, Cherry Growers NSW and Cherries WA) databases were contacted by mail and electronically to advise of upcoming levy workshops. These workshops were very well attended.

Feedback from the workshops were provided to the CGA board for review. Feedback received overwhelmingly supported 'Option 2' where 2c would be sought to be paid direct to CGA. The board went with industry's wishes and ratified a levy ballot between the current levy and 'Option 2.'

The majority of respondents supported the levy change.

This proposal was ultimately not supported by the Agriculture Minister.

After the 2016 levy vote results were not implemented by the Minister for Horticulture Anne Ruston due to policy legislation that prevented the Department of Agriculture and Water Resources from implementing levy collection and payment to a Horticultural Peak Industry Body.

This required a new levy proposal to be developed and put to industry for a vote.

Discussion with the board and the state bodies commenced in early 2017 culminating in a face to face roundtable held in Melbourne in June 2017. This event was well attended by levy payers, all State CGA board members and individual representatives from all states. The event was also administered by an independent facilitator.

As with previous correspondence to industry, submissions were encouraged and were received by non-attending growers.

At the conclusion of this event, a new levy ballot was developed and the ballot was passed for consideration by industry by the CGA Board.

Summary of this proposal and expected levy collection is detailed below.

### **Option 1**

New levy split of 7 Cents/Kilogram

- 5.70 (Cents /Kilogram) for Research & Development that is matched \$ for \$ by the Australian Government;

- 0.30 (Cent /Kilogram) for Plant Health Australia Levy , that is not matched by the Australian Government;
- 1.00 (Cent /Kilogram) for Marketing & Promotional activities, that is not matched by the Australian Government;
- 0.00 (Cent /Kilogram for the Emergency Plant Pest Response Deed levy that will be matched or otherwise as agreed to under regulations and agreements from the EPPRD;

## **Option 2**

Maintain the current levy split of 7Cents/Kilogram with minor adjustments on Research and Development and Plant Health Levy.

- Research and Development Levy at 3.80 (Cents /Kilogram) that is matched \$ for \$ by the Australian Government;
- Marketing and Promotions Levy of 3 (Cents /Kilogram) that is not matched by the Australian Government;
- Plant Health Australia levy set at 0.20 (Cents /Kilogram) that is not matched by the Australian Government;
- Emergency Plant Pest Response Levy set at 0.00 that will be matched or otherwise as agreed to under regulations and agreements from the EPPRD; (Cents /Kilogram).

This proposal was then workshopped across Australia in 2017. It was presented at the Fruit Growers Tasmania conference in 2017 as well as the NSW Cherry Growers Association AGM, The Victorian Cherry Association AGM and the Cherries SA AGM. It was communicated directly to growers in Western Australia and Queensland (only two cherry growers) for feedback.

Feedback received supported the levy ballot as written at the consultative meeting in Melbourne Vic.

### **Has there been a reasonable attempt to inform all potential levy payers of the proposal and allow them to comment?**

Cherry Growers Australia maintains a large and frequently updated list of all levy payers. This includes phone, email and mail contacts. This has been heavily utilised during this process.

For the purposes of the levy ballot, CGA also cross referenced this database with the Cherry levy agent list, provided by DAWR - Levies Stakeholders, Legislation & Policy – to ensure coverage of all levy payers. (Copy attached below)



CGA AgentList  
16.04.18

Additionally, CGA provided all feedback requests, discussion papers and workshop and consultative meeting dates to the state member bodies (VCA, CherriesSA, NSW CGA and FGT) requesting they circulate these invitations also in case any additional growers had missed the notification.

CGA maintains attendance at the AGMs and conferences of all state bodies. The levy was a discussion point at all AGMs and conferences of state bodies (as listed above) since 2014.

Every attempt has been made to ensure full coverage of all cherry levy payers has been maintained during this process.

**Has the initiator of the levy proposal provided an analysis of any arguments opposing a levy?**

The levy review and resulting submissions for levy change have been handled impartially by Cherry Growers Australia and its' board since the commencement of the review in 2014.

All information provided to levy payers has been factual information only presenting the facts of the proposal changes on levy collection.

The spend of collected levies is not determined by Cherry Grower Australia Limited as all levies are collected by DAWR and administrated by Horticulture Innovation Australia or PHA.

Levy documents circulated to industry are attached with this submission for review. These have always sought to provide factual information only to levy payers for them to allow what is the most appropriate course of action for their business.

**Is there an estimate of how much levy would be raised, a clear plan of how it would be utilised and how it would benefit levy payers?**

The estimate of levies raised has been communicated to industry under all proposals since the beginning of the levy review. The levy will be administered by Hort Innovation.

Levy spend is determined by Hort Innovation's board with advice from the Strategic Industry Advisory Panel (cherry). The members of the SIAP are required to operate in compliance with the Strategic Industry Plan which was developed in consultation with levy payers by Hort Innovation.

**Is there majority support on the levy imposition and collection mechanism, or demonstration that the mechanism is equitable?**

Collection mechanisms remain unchanged in this proposal. Levy is paid either by the grower directly or by the organisation selling the produce on their behalf (agent, wholesaler etc). The grower can either maintain this responsibility themselves or pass it to this third party as they determine.

This has remained the levy collection point for many years.

The levy proposal was put to a vote, prepared and handled by the Tasmanian Electoral Commission, with the majority of levy payers supporting the levy change.

**Is the levy imposition equitable between levy payers?**

All levy payers will pay the same levy per kg produced. Large growers will pay a larger levy and smaller growers will pay a larger levy. However, all levies paid will remain the same per kilogram of cherries produced. This remains equitable across all producers and no one grower will be required to pay a larger levy per kg of fruit produced compared with any other grower.

**Is the levy imposition related to the inputs, outputs or value of production of the industry?**

The total levy remains unchanged from the total previous levy in past years. It is proposed to remain at 7c. In terms of keeping place with inflation, as a percentage of the tonnage and value of the crop grown, the cherry levy has been diminishing. Per kg produced and per \$ value sold, the cherry levy does not present an increased imposition to industry compared to the previous structure of the levy.

The major impost of the cherry levy has been that levy payers have desired for a number of years that there be an increased focus and spend on research and development activities and less spend on marketing. The levy change reflects this overall wish of the levy payers.

Overall levy paid remains the same, but less money will be directed to marketing in favour of R&D.

**Is the levy collection system efficient and practical, and does it impose minimal 'red tape' for business?**

The levy collection process remains unchanged from past years. For producers who have to pay the levy, they can elect to have their wholesalers/agents pay the levy on their behalf and therefore having no impost to their business at all. If they wish, they can elect to not have the levy deducted from sale and choose to pay it themselves at their discretion.

**Has the body that will manage levy monies been consulted and is that body accountable to levy payers and Government?**

Hort Innovation has been extensively consulted and remains the body charged with managing horticultural levies of all horticultural industries.

Hort Innovation remains accountable to government and levy payers in responsible administration and spend of all levies.

**Does the industry have a plan to review the levy against the Levy Principles?**

The industry is proposing to have the new levy set for the next 5 years. A review in line with the levy principles will then be once again required.

This 5 year review brings the next levy review in line with the completion of the next Cherry Strategic Industry Plan, which will provide guidance to how the future levy should be structured.

**Cherry Levy Revision Timeline Summary**

Identify the need for a levy because there is a market failure in the industry

Mid term review of the cherry levy was set for 2014. This commenced the review.

Feedback from levy payers was initially received that the total levy of 7c was generally accepted, but a change of the R&D/marketing split may need amendment.

**Contact DAWR to discuss the initial proposed levy**

Minister for Agriculture was contacted in 2014 to advise review of levy.

DAWR - levies have remained in communication throughout review.

Minister was contacted ahead of cherry levy workshops and roadshow in 2016.

Minister was contacted after vote results.

**Develop a plan for how much levy is needed, how it will be spent, how it will benefit levy payers and how it will be collected**

Industry submissions through written and direct feedback to the response to the announced Cherry levy review shaped initial discussion papers.

These were further refined through additional consultation, workshops and seminars.

Summary discussion papers were issued detailing proposed levy change and impacts to industry and total collection.

### **Develop a plan for industry consultation**

Plans for industry consultation were developed by the CGA board in 2015 and in 2017 to canvas grower opinion and desires. These included initial liaison with levy payers directly, communication through state representative bodies, attendance and events (including conferences and AGMs) and events held specifically held to discuss the future levy (funded by CGA).

### **For a new levy or levy increase, develop a plan for a ballot**

All proposal for ballots were communicated to levy payers to allow feedback through discussion papers and feedback reviewed prior to finalisation of any ballots.

All ballots were reviewed, issued and collected by the Tasmanian Electoral Commission.

### **Contact DAWR to discuss progress on levy proposal, including consultation and voting plans. Seek endorsement of plan**

Feedback to DAWR and minister has been undertaken throughout process.

### **Conduct consultation process and for a new levy or levy increase, also conduct an industry ballot**

Extensive consultation process including workshops, seminars, written, spoken and direct opportunity for feedback provided to levy payers as described above.

### **Finalise levy proposal, incorporating consultation outcomes and ballot results. Contact DAWR to discuss final draft**

Final proposal communicated to DAWR.

Completed results provided to DAWR – Levies after receipt of results.

### **Submit levy proposal to Minister or Parliamentary Secretary for consideration**

Initial submission (declined) submitted in June 2016.

Second submission submitted to Minister in November 2017

Current submission submitted to Minister in May 2018.