

### Broad Overview

There is a diverse range of views about all aspects of the industry, NGINZ's role and Towards 2025. They range from very supportive through to hostile.

Most discussion ensued around

- Industry diversity and our ability to represent all – and their desire to have us do so
- Compliance and Collection and our being able to collect from small businesses
- The consultation process
- Governance provisions
- Growers and NGINZ levy administration procedures and administration burden
- The commodity definition will be difficult
- The ability to pass the levy cost onto customers

Some other issues include

- That the proposals will favour large businesses
- That NGINZ is largely seen as an ornamentals and retail-centric body, at least by non-members
- Some question the relevance of NGINZ to their business
- That there are residual trust issues relating to NGINZ's history
- That we are using GIA and biosecurity to promote a broader industry initiative
- Greenlife Double did not feature greatly in discussions (save for whether it being relevant to forestry and horticulture) but when it did it was not well understood
- That we seek to prop up failing finances

On most issues there are opposing views – some people being supportive while others are not. The discussion and feedback has often focused on what makes us different rather than what we have in common.

The 17 regional meetings were attended by 274 people representing approx 200 voting entities. They were for the most part constructive. Additionally we met with 22 businesses face to face. Some 400 questions and comments have been recorded and this report serves to distil these to core issues.

The meetings were roughly three quarters non-members.

We've also had meetings with nurseries who grow for forestry, wine grapes, kiwifruit and avocado. These nurseries and others who grow for Pipfruit and Summerfruit are generally sceptical of our proposal and value proposition.

Several parties have represented strong opposition to the market and/or have been critical of our process and intentions.

## **Governance Issues**

---

### **Issue Board Model**

#### Proposal

- That the Board be competency based and highly governance focused

#### Feedback

- Strong feedback from forestry and horticultural sector nurseries that they need direct representation on the Board.
  - Some feedback that Board representation should reflect size of the various nursery sectors.
- 

### **Issue Board Structure**

#### Proposal

- Meeting presentations proposed that the board comprise four levy payers, three others and an independent chair
- The consultation papers refer to a Board comprised of:
  - 4 elected levy payers
  - 3 other elected
  - Up to 1 Board appointee
  - Board appointed chair
  - The difference being the one Board appointee

#### Feedback

- Substantial feedback that there should be a higher ratio of levy payers.
  - Some that 3 non-levy paying Board members are too many and that it is inequitable that non-levy payers get a disproportionately high number of seats – compared to member numbers (say 1000/250) or financial contribution (say \$1.2M/\$200K) ratios.
  - That an eight person board could lead to a hung vote and the chair (a non-levy) payer would have the casting vote.
  - Commodity Levies Act requires at least 50% of Board be levy payers and MPI advice is that a meeting quorum must provide for at least the same – sometimes difficult with the 4/3 model.
  - What's to prevent a grower-retailer who grows a little getting on the Board as a levy payer?
  - One person provided a written submission in this regard
    - Board composition – 5 elected by levy payers, 2 others
      - Suggesting that the 5 elected by levy payers would not need to be levy payers.
    - Chair elected by members (of all classes)
    - Voting rights among levy payers who are not members
- 

### **Issue Board Chair**

#### Proposal

- That the Board appoints the Chair

#### Feedback

- One person provided a written submission to the effect that levy payers elect the Chair.
-

### Issue **Industry Advisory Committee (IAC)**

#### Proposal

- That an IAC be formed to advise the Board on levy programme priorities and act as the conduit between Board and members.
- It comprises:
  - 9 Growers elected by Growers
  - 1 from each of the industry supply chains elected by growers in those supply chains (5 in total)
  - The 5 supply chain members comprise one each from levy payers supplying
    - production horticulture
    - forestry
    - revegetation and restoration
    - amenity and landscaping
    - retail and home garden
  - 4 elected by Growers at large
  - 5 others nominated by the Board to ensure expertise and balance. Of these, 3 shall be representative of independent retailers, home improvement retailers and industry suppliers.

#### Feedback

- Generally accepted.
- Some felt that there was need for greater representation among production horticulture.
- Some comment on large size of IAC

---

### Issue **Voting at AGM and SGM on levy matters**

#### Proposal

- Voting is initially one member one vote unless a poll is called for in which case weighted voting is commonly based upon commodity quantity or levy value paid.
- On non-levy matters voting among all members classes is one vote per member irrespective of size of business.

#### Feedback

- Some considered the weighted voting proposal for levy matters as inequitable and favouring larger producers, with several suggesting this perpetuates the status quo where the Association acts in the interests of larger businesses.

---

### **Voting and speaking rights among levy payers**

#### Proposal

- All levy payers become members
- With a provision for conscientious objectors

#### Feedback

- That the Court's and the possible changes to the Incorporated Societies Act prevent us from "forcing" someone to become a member. Such a relationship is a contract, and you cannot force someone to enter into a contract. That we must provide a membership "opt-in" facility for levy payers.

### Issue Non-levy-payer Membership

#### Proposal

- That we provide for non-levy payer membership classes

#### Feedback

- Little feedback was received on the principle, but there were
  - Many comments made to the effect that “retailers” benefit and should pay the levy or an equivalent fee
  - Some comments that current membership and branch options lacked equity and fairness
  - Questions as to how retailers felt about the changes and a “grower” dominated Association
  - Questions as to how levy and fees will be determined for a retailer that grew some of their own plants , and hence paid a levy on these

---

### Issue Status of a new Constitution at time of Referendum

#### Proposal

- Governance discussion paper establishes clear proposal preferences - feedback on which is presented elsewhere in this document.
- The consultation document is silent on when the new constitution will be available and enacted

#### Feedback

- Prominent among information circulated by those who oppose our proposal is a view that they cannot reach an informed decision without the constitution being in place.
- One person provided a written submission in this regard
  - Noting they expect a “draft of the new structure including company structure, constitution, personnel structure” to provide “full disclosure of mechanics and control” before they vote.

---

### Other Governance related Feedback

#### Board members paid?

- The Governance proposal is silent on this
- Raised at several meetings, and answered to the effect that with the exception of Independent Chair, Board and IAC members are not paid.

#### That we should join HortNZ

- Several people commented on the desire to join HortNZ,
  - To align with their goals and objective and resources
  - To avoid duplication

### GIA Issues

---

#### Issue GIA Acceptance

##### Feedback

- There was a range of responses to GIA – from acceptance that it will improve biosecurity and that we need to be involved; through to biosecurity being the government’s job and that they will take care of it for us.
- Some consider we are using GIA and biosecurity to introduce a wider funding mechanism.
- There were questions on how we will collect a biosecurity levy and in particular how it might fund a large incursion liability.

### Consultation Processes

---

#### Issue Adequacy of consultation & industry notice

##### Process

- December and February mailings to our 800 WOI grower database
- February and March NGINZ newsletters to our 1700 WOI growers and retailer database
- Editorials in Comm Hort, NZ Grower, The Orchardist – the latter two being Horticulture NZ publications
- Adverts of our intent to apply for a commodity levy in public notice columns of 31 newspapers

##### Feedback

- Some to the extent that our industry notice and meeting notice process did not penetrate far enough into the small business sector.
- That our process limited the ability for small producers and market growers to be involved.
- That our public notices were inadequate to sufficiently inform businesses not on our database
- Why did we not advertise through the farmers markets, nurseries in the Yellow Pages & on Trade Me?
- Lots of charity-based nurseries do not know about this – for example those funded by Forest & Bird.
- That there are too few people at the meetings relative to the number of growers and that people who are not at the meetings may be poorly informed.

### Timeframes

---

##### Process

- Whole of industry publicity (WOI) effectively began in February (acknowledging work in 2014 was in public and covered in Commercial Horticulture)
- Targeted sector consultation February through April
- WOI consultation in March and early April
- Referendum scheduled for May

##### Feedback

- That we are moving too fast to have a meaningful discussion
- For people new to the discussion, especially non-members, the timeframe is too short.

## **The Referendum**

---

### **Issue Voter Registration**

#### Proposal

- NGINZ is collecting voter registrations

#### Feedback

- What makes a voter eligible
- That voter registration should be managed by a third party and that NGINZ is not seen as impartial.
- That an independent third party registration entity that also conducts any vote and destroys the list in event of a no vote. Either the list is protected by privacy or made fully public – it is not the property of the NGINZ if all plant producers are to be included. Some sector groups are reluctant to divulge their membership unless this issue is addressed.
- Some raise trust issues

---

### **Issue Referendum Agent**

#### Proposal

- While we intend to use an independent third party, our Consultation documents are silent on who will conduct the referendum.

#### Feedback

- That the referendum should be managed by a third party and that NGINZ is not seen as impartial.
- Some raise trust issues

## **Levy Matters**

---

### **Issue Industry Scope**

#### Proposal

- That all types of nursery producers are within scope irrespective of the type of plant they grow or the market they supply

#### Feedback

- That this is too broad, that the nursery industry is too diverse for any one body to represent its needs.
- That the needs of many who sell into the forestry and horticulture production sectors are met by the industry bodies representing the producers in those sectors.
- That NGINZ is ornamental plant and retail supply chain centric

---

### **Issue Alignment of spend with the Sector from which Levy was raised**

#### Feedback

- Some are interpreting Sec 5(2)(i) of the Act “that the uses to which the levy will be put will be closely related to the interests of the persons who will be primarily responsible for paying it” in a fashion that requires us to spend the levy funds raised from nurseries supplying say kiwifruit on work specific to those nurseries and that supply chain, and maintaining separate levy accounting for each of these sectors.

---

### **Issue Are we imposing two levies on the “same commodity?”**

#### Feedback

- That in proposing a levy on plants grown for forestry and production horticulture we are creating a situation where a levy is being imposed a twice – once on the “young plants”, and then on the produce

---

### **Issue Commodity Definition**

#### Proposal

- That the commodity be defined as “all plants grown and sold for commercial purposes”
  - It includes plants grown for all markets - urban & amenity, restoration & revegetation, home garden & landscaping, forestry & production horticulture
  - Tissue culture, seeds, cuttings and bulbs exempt.

#### Feedback

- Generally accepted in broad terms.
- Exemptions drew questions, but the principle was largely supported. Bulbs were the most contentious among this list.
- There was extensive discussion on “boundary” issues
  - Root stocks, graft wood, poplar and willow poles
  - Garden centres who pot on unsold stock

---

### Issue Double Dipping

#### Proposal

- That we will raise the levy on each sale as a plant moved from one nursery producer to another (and provide a levy rebate mechanism for prior paid levy)

#### Feedback

- MPI have flagged concern with our proposing to charge a levy at multiple points on the same plant, arguing for example that a hebe in a 5cm tube is the same plant as that hebe transplanted and grown through to sale in a 3 litre pot; that the pot size is irrelevant, a bare root rose is not different to a potted rose.

---

### Issue Freight ... and pots, labels, IP & box store rebates

#### Proposal

- That the levy be paid on the (value of the) complete plant as it is sold at any one stage of nursery production

#### Feedback

- There was a diversity of views as to whether freight should be included in the price of a plant for levy calculation. Some said “yes”, others said “no”. There was an alignment with whether the nursery was invoicing FIS or plus freight respectively.
- Some argued nursery gate value was appropriate – that is, exclusive of freight.
- Ensuing questions arose as to the equity of charging a levy on a “high value” pot, labels, royalty and in one case, rebates paid to retailers.

---

### Issue Defining a grower

#### What businesses and “nursery activities” should be in scope?

##### Own Use

#### Proposal

- Any person or business who grows and sell a plant for commercial return is subject to the levy
- Includes sales at markets, councils, DOC, Corrections, Trade Me, charities producing plants
- Includes those grown by businesses for ‘own use’, eg landscapers growing their own plants, garden centres growing some plants, orchardists growing own plants.

#### Feedback

- Generally accepted in broad terms.
- There was extensive feedback on “own use”
  - In particular at retail and vegetable production
  - How such production might be valued
  - Its equity and fairness, the likelihood of capturing “minor use” and in many cases creating a levy liability for a few dollars a year.
  - The liability imposed upon retailers who might put on bare root roses and trees
- Comment on the need to clearly define “commercial” and ensure application to transfer pricing, barter and contra – essentially a wide range of “non-invoiced” transactions common in government departments.

---

### Issue Levy Payer Compliance and Administration

#### Proposal

- That levy payers will furnish self-declared levy returns and payment

#### Feedback

- There was considerable discussion on our relying upon growers in this fashion, especially among the “informal” plant trade and our ability to identify “all” levy payers; it will be fraught with people not paying and under declarations.
- There were comments as to the equity, fairness and need to “capture small producers” through to that it is petty to intend to do so.
- There was much comment on our being able to collect effectively and efficiently among the “informal” plant trade.
- There was a wide disparity among comments as to administrative burden – from “easy” through time consuming and expensive to impossible. The “hard to do” views were largely among smaller business who might not have electronic or sophisticated accounting systems and those with multiple revenue streams which they cannot readily differentiate between.
- There were comments that it needed to be simple to administer.
- There has been much comment and distrust of the CLA’s provisions for audit.

---

### Levy payment frequency

#### Proposal

- That the levy return period be aligned with a business’s GST period – or in the case of a business not being registered for GST, six monthly.

#### Feedback

- There were questions about the levy return period, especially for small business where any one levy return may be for a “few” dollars.

## **NGINZ Levy Management**

---

### **Issue Confidentiality**

Feedback

- Some expressed concern about NGINZ knowing their turnover figures upon them paying the levy
- 

### **Issue NGINZ Administration Costs**

Proposal

- Current Board guidance that likely administration costs account for 15% of levy funds

Feedback

- What will NGINZ administration costs be, and what portion of the levy will be spend on administration
- That administration costs will consume too much of the levy
- Is 15% (\$180,000 of levy collection was \$1.2M) enough to run the Association – is this a realistic target