

A COMMODITY LEVY SUSTAINABLE & EQUITABLE INDUSTRY FUNDING

Overview

Government provides a mechanism for primary sector industry bodies to fund their work in a fashion where all those who will benefit from this work contribute towards its funding. It is called The Commodity Levies Act.

The Act recognises that the primary sector often comprises a significant number of small producers who are not large enough to fund activities that have application to the industry as a whole, such as advocacy, quality assurance, research, development and extension, industry promotion and product promotion.

Often these activities are undertaken through an industry body and funded by voluntary levies or membership subscriptions. However, there are those who choose not to join such bodies and this leads to non-payer and “free rider” issues. Some of those who benefit from industry activities do not contribute to the provision, yet they cannot usually be excluded from receiving the benefits of voluntary levies.

The need for industry funding, and the free rider problem faced by industry organisations, motivated government to provide for organisations to levy their industries when there was sufficient support among levy payers. The Commodity Levies Act enables an industry body representing a distinct group of prospective levy payers to impose a levy on a commodity to fund activities for the betterment of those levy payers.

The government however recognises a compulsory levy places a burden on industry members and has instigated safeguards to reduce adverse effects and ensure industry body accountability to levy payers.

These safeguard provisions include:

- Restricting the uses of compulsory levies
- Prescribing the requirements to be met before government will authorise a levy
- Prescribing the practices to be carried out by groups that are recipients of compulsory levies
- Conscientious objector provisions
- Provision for keeping of records and accountability to levy payers
- A sunset clause on levy orders
- Provision for compliance audits.

Levy orders are established only with the consent of potential levy payers (in our case, nursery growers). The government requires the industry body to undertake consultation, to consider feedback and, finally, to demonstrate an industry mandate among those who are potential levy payers (growers) through a referendum. We must gain the support of 50% of those who vote, and those who support must represent 50% of the value of plants sold amongst voters.

A levy order needs the approval of the Minister for Primary Industry and is valid for six years, renewed through further consultation and referendum.

Commodity levies and the Primary Sector

The Commodity Levies Act applies a levy to the production of a commodity defined in the Act as “an agricultural, farmed, forestry, horticultural, mineral or wild product”. It is the producers of the commodity who pay the levy.

In the context of the nursery and garden industry, the producers are growers (that is nurseries) and the commodity is plants. That is, nursery growers will pay the levy on plants grown for commercial return.

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The Act does not facilitate levy application to goods or services outside the primary sector. The levy cannot be applied to garden retail or to allied industry supply of goods or services to production nurseries or garden retail. Inputs to a primary production process can be levied, for example pots. In this example, it is however still a levy on the grower, and their usage of pots, rather than a levy on the pot producer or importer who then sells the pots to a grower.

Thirty one levy orders are currently in place encompassing the gambit of the agriculture and horticulture sectors. Notable exceptions are the nursery industry and the cut flower sector – paeonies aside. Virtually all primary sector ‘industry good’ bodies are funded by a Commodity Levy.

Commodity levies and the Nursery Sector

The development of an industry levy is flagged in NGINZ’s 2011-2016 Strategic Plan and this intention has been discussed at industry forums for a number of years. A levy establishes a sustainable and equitable industry-wide funding arrangement for the good of the nursery and garden industry.

The use of levy funds

Greenlife Double and the wide range of activities needed to promote and support the campaign meet criteria set by the Act:

- research (including market research)
- the development of products derived from the commodity
- the development of markets
- the promotion (including generic advertising) of the industry concerned and/or the commodity
- the protection or improvement of the health of the commodity (including biosecurity)
- quality assurance programmes
- education, information, promotion or training
- day-to-day administration of the industry organisation's activities

Need for a Nursery Industry Commodity Levy

Key to Greenlife Double is the means to resource it. At these early stages, an indicative budget of \$1.5 million is envisaged (inclusive of Association administration).

A **Commodity Levy** would enable us to proactively pursue Greenlife Double, meet our GIA commitments and provide a secure funding base for the Association’s ‘industry good’ work and administration.

A levy on growers

As noted elsewhere, a commodity levy is raised against the production of an agricultural commodity. It is then paid by the producers of the commodity.. In the context of the nursery and garden industry, that commodity is plants, and the producers are growers.

Any business that grows plants and sells them for commercial return will be subject to the levy.

Non-grower industry members

A levy cannot be raised among non-grower industry businesses – retailers and suppliers to nurseries, for example. They do not produce the commodity, plants – this is a cornerstone of the Act.

They are however, an integral part of NGINZ, and along with the amenity and landscape sectors, an integral part of the nursery and garden industry and key participants in Greenlife Double.

A vital component of the Levy process will be to ensure that we maintain a “whole of industry” approach and continue to harness the benefits of a vertically integrated industry where efforts of all branches and parties in the supply chain will multiply and contribute to the success of Greenlife Double and other industry goals. Our levy proposal will include appropriate member and governance structures to ensure an inclusive approach and strong engagement with all sectors in our industry.

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The mechanics in brief

Some processes and considerations within the scope of a nursery industry levy include

- A levy order needs to be approved by the Minister for Primary Industries. The Minister will only approve our levy if NGINZ can demonstrate industry support through extensive consultation, consideration of feedback and a referendum amongst potentially affected parties. Essentially the industry must see value in the benefits the levy will bring to industry and thus record its support for the levy.
- A Commodity levy order is valid for six years, at which time a renewed proposal and supporting referendum and application to the Minister is required for the levy to be renewed
- NGINZ would need to change its governance, management and decision making processes relating to levy funds to ensure it is responsive to the needs and views of levy payers. Processes would be developed to ensure sound consultation and reporting including an annual meeting of levy payers. An annual report would be furnished to MPI. Governance proposals are discussed in a Section 6 – “Governance Discussion Paper”
- NGINZ is in the process of consulting with industry to determine the defined commodity – at this stage the commodity would likely be all plants commercially produced and sold. Our scope would ideally parallel our “GIA scope” (also being developed). At this stage our intended scope would entail:
 - All plants produced and sold for the purpose of supply to production horticulture, forestry, retail outlets, landscapers, territorial and regional authorities, government departments and projects, those sold direct to consumers (whether these are individuals or body corporates) and sold anywhere else.
 - Plants produced in container nurseries, open ground nurseries, greenhouses, shade houses or imported plants, or any other place where plants may be produced.
 - Plants grown by “grower/retailers” – people who grow plants and then sell the same direct to the “end user”. The end user may be the consumer, through retail, or a landscape or the built or natural environment.
- Mechanisms would be developed to avoid double dipping as some plants passed through the production cycle – for example, plugs and liners and being sold to other growers. It is proposed that tissue culture be exempt.
- Growers would be levied on sales and pay the appropriate levy to NGINZ. The levy would be compulsory for all; anybody who produced the commodity would be required by law to pay.
- All levy payers would become members of NGINZ – provision would be made for conscientious objectors, who would pay their levy to MPI. The Ministry would then pass it onto NGINZ.
- The levy would replace NGINZ membership subscriptions for all levy payers (growers).
- The Act requires a maximum levy rate be set, and NGINZ proposes this be 0.4%. The Act also stipulates that that the proposal establishes the actual rate for the first year; NGINZ proposes this be 0.3%.
- The actual levy rate for the second and subsequent years is set at an AGM for levy-payers (growers).
- It is intended that we would raise \$1.5 million per annum.

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Funding GIA

GIA funding requirements fall into three main areas; minimum commitments, preparedness and response (see Section 4, page 18)

A Commodity Levy is appropriate for funding minimum commitments and preparedness, while a Biosecurity Levy is the best mechanism for any response costs.

A Biosecurity Levy is in addition to a Commodity Levy, but operates in similar fashion; it is levy on growers of the industry's product – in our case plants.

It is our proposal to establish a Biosecurity Levy for GIA response purposes, but with the rate set at 0%. That is, we will establish the infrastructure and mechanisms for the Biosecurity Levy, but not raise any funds until such a time that we incur responses costs. At that time, the Biosecurity Levy rate will be reset in order to recover the expense over an appropriate timeframe.

Our next steps

NGINZ is preparing to consult with all potential levy payers (growers) and other industry members on its Towards 2025 proposal and in particular the introduction of a commodity levy, as well as Greenlife Double and GIA proposals.

The levy will be an important part of the discussion during industry consultation meetings in March 2015. With industry support, we will develop a formal proposal for a referendum among potential levy payers (growers) in May and if successful develop an application for consideration by the Minister for Primary Industries.

You can keep in touch with our progress through updates to our website - www.nginz.co.nz/towards2025,

If you've questions or comments, please feel welcome to approach NGINZ Board members or CEO, John Liddle