AgForce Queensland Industrial Union of Employers
ABN 21 241 679 171

Second Floor, 110 Mary Street, Brisbane, Qld, 4000
PO Box 13186, North Bank Plaza, cnr Ann & George Sts, Brisbane Qld 4003

Ph: (07) 3236 3100
Fax: (07) 3236 3077
Email: agforce@agforceqld.org.au
Web: www.agforceqld.org.au

03 June 2013

Mr Rob Hansen
Research Director
Agriculture, Resources and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Hansen,

Re: Nature Conservation (Protected Plants) and Other Legislation Amendment Bill 2013

AgForce Queensland (AgForce) is the peak lobby group representing the majority of beef, sheep and wool, and grain producers in Queensland. AgForce represents around 6,000 members and exists to ensure the long term growth, viability, competitiveness and profitability of these industries. Our members provide high quality food and fibre products to Australian and overseas consumers, manage a significant proportion of Queensland's natural resources and contribute to the social fabric of rural and remote communities.

AgForce's concerns on the *Nature Conservation Act 1992* (NCA) protected plants regulation have already been the topic of submissions to the Department of Environment and Heritage Protection's Regulatory Impact Statement (RIS) on this topic. A copy of that previous submission is attached to this document for the Committee's consideration.

AgForce and the NCA (Protected Plants) Review

AgForce welcomes the opportunity to provide comment on the review of the legislative framework for protected plants under the *Nature Conservation Act 1992* (NCA). These particular protections have historically been difficult to interpret and apply and are poorly understood by our industry – something that has not been proactively addressed through development of clear communications and materials in the past. In fact, the absence of clear information on this regulatory framework and the lack of engagement and communication by the regulator has led to a general lack of awareness of the framework. Admittedly, this has likely led to poor compliance rates with the regulation by the broadacre sector. This checkered history has therefore led to AgForce's preference that the proposed reform should aim for maximum effectiveness (radical review) rather than placing emphasis on retaining elements of the current flawed process.

AgForce is supportive of any review which aims to streamline regulation and reduce red tape. AgForce also supports the notion that some plants and wildlife are so vulnerable and threatened that they should have legal protection. Despite this, AgForce does not feel that the Department's Consultation RIS and subsequent decision to proceed with Option 2 described in the RIS has thoroughly considered all options that would lead to the delivery of AgForce's key desired outcomes, being both tangible environmental outcomes and red tape reduction. Given the Department's preferred option, AgForce would like to take this opportunity to reiterate the concerns voiced in the attached original RIS by referring our previous submission (attached). AgForce would also like to take this opportunity to make comment on the Nature Conservation (Protected Plants) and Other Legislation Amendment Bill 2013 and accompanying Explanatory Memoranda (EM) under the next heading.

Comments on the Nature Conservation (Protected Plants) and Other Legislation Amendment Bill 2013, Explanatory Memoranda & Decision RIS

Timing and Process

The explanatory notes to this Bill outline that it will form 'the first stage of amendments that are required to facilitate the implementation of the preferred regulatory option' however fail to provide any overview on what the subsequent amendments will be, what form and detail they will include, or over what timeframe they will be implemented. AgForce submits that it is difficult to make informed comment on a process which has not been outlined with any detail and requests this detail be made available prior to this Bill being passed.

Setting Conservation Values for Protected Plants

There is little detail in the EM explaining or justifying the expansion of conservation values to plants. Whilst the EM states that payment of conservation values will not generally be required AgForce requests that any proposal to set additional costs is explained in detail.

Alternative Ways of Achieving Policy Objectives

The EM outlines the preferred approach adopts a risk-based approach to regulation and removal of unnecessary regulatory burden. As outlined in detail in our original submission (attached), AgForce disagrees that this review has been a genuine review for the purpose of achieving policy objectives. In particular, it:

1. Failed to fully investigate the benefits of co-regulation. The Consultation RIS merely outlines in response to this aspect that 'integration with SPA and the VMA is not supported across government at this time and is thus out of the scope.' AgForce's assessment is that DEHP's and the Department of Natural Resources and Mines' inability to work together will now mean that landholders are forced to jump through multiple legislative processes rather than enjoying true streamlining.
2. Did not consider an approach for a combination of co-regulation and public awareness which AgForce purports could have gained support from a substantial range of stakeholders if included. As outlined in AgForce's original submission, if a public awareness campaign was to outlined that top 10 at-risk plant species should be protected and landholders became aware that they had one of these plants on their property, they would be likely to voluntarily protect it at no cost (and without any legislative requirement). However, perversely, by legislating the

protection of hundreds of native plants which are communicated only by scientific name in a separate legislative framework to the predominant piece of native vegetation legislation in Queensland then the risk of not meeting the Act's purpose is increased. Under a joint co-regulation/public awareness program the department's requirement to licence commercial harvesters could still be maintained.

AgForce would like to thank the Committee for the opportunity to provide comment on this Bill. If you would like to discuss the submissions further please contact me on 3236 3100 or email hewittl@agforceqld.org.au

Yours sincerely,

Lauren Hewitt
General Manager, Policy

March 2013

AgForce Submission

The review of the Protected Plant Legislative Framework under the *Nature Conservation Act 1992*

AGFORCE

Introduction

AgForce Queensland (AgForce) is the peak lobby group representing the majority of beef, sheep and wool, and grain producers in Queensland. AgForce represents around 6,000 members and exists to ensure the long term growth, viability, competitiveness and profitability of these industries. Our members provide high quality food and fibre products to Australian and overseas consumers, manage a significant proportion of Queensland's natural resources and contribute to the social fabric of rural and remote communities.

AgForce welcomes the opportunity to provide comment on the review of the legislative framework for protected plants under the *Nature Conservation Act 1992* (NCA). These particular protections have been difficult to interpret and apply and are poorly understood by our industry – something that has not been proactively addressed through development of clear communications and materials in the past.

We are supportive of any review which aims to streamline regulation and reduce red tape. However, we do not feel that the Consultation Regulatory Impact Statement (RIS) has thoroughly considered all options that would lead to the delivery of AgForce's key desired outcomes, being both tangible environmental outcomes and red tape reduction. In the following submission AgForce has outlined its concerns relating to the three options considered in the RIS as well as some additional delivery methods which would provide practical environmental outcomes.

The Broadacre Agriculture Sector

As custodians of over 50per cent of Queensland the broadacre sector which AgForce represents intersects with the protected plant regulations through the course of everyday business activities which may include:

- Clearing of new or regrowth vegetation for the maintenance of existing infrastructure or construction of new infrastructure such as roads, fence lines, water points, and firebreaks.
- Grazing regimes on a variety of land types.
- The development of new cropping and/or improved pasture areas.
- The management of Regional Ecosystems to maintain the optimal environmental state, for example to control vegetation thickening or encroachment of woody vegetation into grasslands.

Today and despite proposed reforms outlined in the recently introduced *Vegetation Management Framework Amendment Bill 2013*, vegetation clearing is either prohibited or highly constrained. This is a significant contrast to the situation facing policy-makers at the time the protected plants framework was first introduced which is likely to have been during the peak of land clearing in Queensland when there was conceivably, a significantly higher risk to protected plants. It should be noted that at the introduction of the Nature Conservation (protected plants) Conservation Plan 2000, the Statewide Landcover and Trees Study Report registered a peak clearing rate across Queensland of over 700,000 hectares per year. This clearing rate has been on a dramatic decline over the last 13 years, with the same study reporting a clearing rate of 77,590 hectares per year in the latest report.

It is AgForce's understanding that is was largely introduced to control the harvesting of threatened species by the nursery industry, particularly those in coastal regions. This may explain why its application to the broadacre grazing sector is sub-optimal and represents a significant cost and time burden.

It should be noted that where landholders have been engaged and educated about vegetation legislation and provided practical tools such as maps (for example under the *Vegetation Management Act 1999 (VMA*) there has been a high degree of compliance.

AgForce also notes that the RIS contains a statement to the effect that if no action was taken and the NCA regulations be allowed to expire, there would be no protection in place for individual species. In addition to the existing protections provided by the VMA, under the *Environmental Protection and Biodiversity Act 1999* (EPBC Act), there are over 1200 species and communities protected nationally.

Option 1 (Business as Usual) – specific comments
AgForce disagrees strongly with Option 1 as outlined in the RIS on the following grounds:

1. <u>The protected plant process is duplicative and inferior to far more extensive State legislation on vegetation and the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth).</u>
   While the VMA and NCA currently operate at different scales (community/ecosystem v species) the objects of both Acts explain the desire to 'conserve' either ecosystems or flora and fauna and 'protect' biodiversity.

   Currently the two processes operate in isolation to each other, and approvals under each Act are not interlinked. While the VMA at its heart is a set of complex mapping layers which landholders have painstakingly been taught to interpret and apply, these maps fail to reference the existence of a separate State regulatory regime.

   The EPBC Act protects matters of national environmental significance, including plants that are considered vulnerable, endangered and critically endangered. It has systems in place that minimise key threatening processes and to identify, list and map the protected species. AgForce questions how many of the 1299 species listed under the EPBC legislative protection are in fact an unnecessary duplication of those listed within the EPBC.

2. <u>The basis of developing an extensive list of flora species, decreeing them as 'protected' and populating a database using sightings only is flawed.</u>
   The creation of such an extensive list with identification by botanical name alone would be appropriate instructions for only the most highly experienced Queensland botanists – of which there are extremely few across the State. For the limited number of people who understand the framework and can identify any of the wide-ranging list of species , the process and associated permit process does not engender compliance. Rather, is likely to lead to destruction of protected species so as to avoid being listed on the database.

3. <u>The permit system in place is onerous (even for least concern plants).</u>
   Requirements to conduct flora surveys on broadacre properties is costly and time consuming.

4. <u>The protected plant regulations have never been appropriately communicated.</u>
   As discussed earlier there is no spatial layer of protected plants, no simple fact sheets explaining the requirements and most species are listed only by their botanical names without common name descriptions. Despite the significant efforts undertaken by the Queensland Government over the last decade in educating the broadacre sector about their obligations under the VMA, very little effort has gone into using this process to explain the protected plant framework.

In summary, AgForce does not support continuation of the current regime as described in Option 1 of the RIS.

Option 2 'Greentape Reduction & Regulatory Simplification' – specific comments
While this option is described in the RIS as greentape reduction and regulatory simplification AgForce suggests that this could be described only by comparison to the current burdensome system (Option 1). Nonetheless, we agree that it is an improvement on the latter.

Despite the streamlining, AgForce is not supportive of Option 2 on the following grounds:

1. Significant costs will be borne by the broadacre agriculture sector.

$2,500 for a clearing permit is expensive and does not take into account differentiations in property size. By comparison, vegetation permits under the VMA are on average substantially less but is scaled, for example:

Vegetation Clearing Purpose	**S22A(2) VMA**	**Fee**
Necessary to control non-native plants or declared pests	(b)	Nil
To ensure public safety	(c)	Nil
Establishing a fence, firebreak, road or vehicular track	(d)	$365.60
Thinning	(g)	$365.60
Declared significant project under s26 *State Development and Public Works Organisation Act 1971*	(a)	$5521 (scaled to risk)

It is stated in the RIS that these high costs are to recover some of the assessment cost. AgForce questions why this assessment is disproportionate to that under the VMA.

Not only are the permit application fees extraordinarily high, the costs of completing a flora survey on a broadscale property (of an average size of approximately 8,000ha) given that most activities would be classified as high risk activities would be prohibitive to any form of compliance.

AgForce notes that other sectors such as the resource sector are granted exemptions in certain circumstances and queries what the results of audits on this compliance have been.

2. AgForce disagrees with the statement in Option 2 that it will not impose a significant burden on government or business.

The earlier example of everyday activities on a broadacre property indicates how burdensome this process will become.

3. While we agree with the intent to increase permit time to two years, this is not long enough to ensure sustainable land use outcomes.

AgForce's experience with VMA permits has been that a short (under five years) permit time is not conducive to sustainable land management and can lead to negative environmental outcomes just to meet permit timelines. Landholders need the greatest possible flexibility to

cope with weather and resource contraints. In light of this, recent proposed changes to the VMA will allow for Area Management Plans to have a life of 10 years. Even the current VMA permits are granted for a period of five years.

In summary, AgForce does not support the government's preferred approach (Option 2).

Option 3 – Co-regulation – specific comments

AgForce supports the move to co-regulation however notes that additional work is required to fully investigate all possible options. Option 3 features a number of similarities to Option 2 and as outlined above AgForce does not support a number of these, in particular the high cost of permits and associated flora surveys on broadacre properties.

Option 3 suggests that the Department would be "recovering a large proportion" of the costs associated with the property surveys. Taking into account the requirements for an average flora survey which can include:

- An initial desktop assessment
- Field work preparation
- Travel
- Accommodation
- Meals
- Data entry
- Mapping and reporting
- Staffing costs

  This also does not take into account the type or number of threatened species an ecologist would be looking for, how vegetated the land is, or the terrain and conditions that might be present.

As outlined earlier, the size and scale of broadacre properties is so substantive that mandating flora surveys would be cost and time prohibitive. The statement "recovering a large proportion" of the costs indicates that the Queensland Government would be assuming a small proportion of the associated costs. In the current economic climate it does not seem likely that the Government would accept any proposal that increases administration costs to such an extent. Given this, AgForce is not supportive of the proposal in Option 3 to allow department staff to conduct the on-site assessment.

Only if protected plants could be integrated with the VMA would a true cost and time saving be delivered. Such integration would include:

- Integrating mapping so that landholders receive the one map
- Integrating permit application processes
- Ensuring communication materials deal with both areas

The recent proposal from the Department of Natural Resources and Mines (DNRM) has been to develop a set of **self-assessable codes** for landholders to follow and abide by for sustainable land practices. These codes could foreseeably include a section on protected plants in order to better inform landholders of their obligations and assist in a compliance regime.

Option 3 states if there is no data for a property then clearing would be exempt (but the landholder still bears onus of liability). The department has discussed obtaining more data for Queensland on protected plants to ensure adequate protection, but have contradicted this by indicating the lack of data would be sufficient for an exemption.

Option 3 notes that 'site evaluations' done by the department to improve data and AgForce seeks more information on this.

In summary, AgForce supports co-regulation however feels that more investigation on integration with existing regulation is required.

Other Options not Included in the RIS

4A – Move to a true risk-based approach
It is AgForce's view that most landholders who are made aware of or know that they have truly endangered plants on their property would work to protect them. Applying this rationale, if the department could identify a small number of plants that it wished to focus on, an effective education and awareness campaign is likely to result in a high degree of compliance and protection.

This option could be implemented with or without legislation and in the latter case would result in a significant red tape reduction whilst at the same time delivering tangible outcomes and fostering landholder cooperation (which is also an objective of the NCA).

4B - Review the Purpose and Need for the Act to continue
As identified earlier, the NCA was implemented prior to the VMA and as such may have been driven by regulating key threatening processes which are no longer relevant. AgForce recommends that the purpose and need for the NCA protected plants framework is reconsidered in the broadacre context.

4C – Provide a broadacre or pastoral exemption
If the significant aim of the framework is to regulate the nursery industry and regulate harvesting of protected plants, AgForce would welcome discussion on a broadacre or pastoral (geographic-based) exemption. This would be on the basis that the current and any future regime is poorly-suited to a broadacre context, is expensive and that the key threatening process (broadscale clearing) is no longer a substantial risk. This exemption could be granted to an industry or geographical zonation (i.e. west of the divide in what is known as the pastoral area).

Conclusion
AgForce supports the intent to review this framework however believe further work is required to provide a true red-tape reduction. AgForce believes that a full review of the protected plants framework should:

- Ensure that only one set of maps exist for protected vegetation species and communities – currently NCA and VMA mapping is separate.
- That any regulation is communicated effectively, including an education and extension program.
- That any move to enforce greater compliance should follow a significant communication campaign.
- Be risk-based.
- Not result in higher costs.
- Note the need and recent trend towards practical outcomes and simplification of vegetation protection laws under the VMA and apply a similar process.
- Provide exemptions to low-risk industries.
- Reassess the real need for the legislation.

AgForce once again thanks the Department of Environment and Heritage Protection for the opportunity to comment on the review of the Protected Plants Legislative Framework under the *Nature Conservation Act 1992*. AgForce hopes the comments and recommendations made within this submission are given due consideration and we look forward to the outcomes of the review. If the Department of Environment and Heritage Protection require further information on anything provided in this document please contact, General Manager, Policy Lauren Hewitt on 07 3236 3100.