



13 January 2014

Mr Ian Rickuss MP
 Chair Agriculture, Resources and Environment Committee
 Member for Lockyer

Dear Mr Rickuss,

The LGAQ is writing to thank you for the opportunity to provide feedback on the Biosecurity Bill 2013. The LGAQ has compiled a table of comments and recommendations (attached) in consultation with member councils.

Overall, the Association would like to commend the State in the development of a Bill that has cut through unnecessary red tape for local government responsibilities.

The submission makes a number of requests for further information to clarify requirements in the Bill. Key items include:

- Further detail on the lifespan and scope of local government area Biosecurity Plans;
- Rationale for downgrading a number of invasive biosecurity species from Prohibited to Restricted.

There are also a number of recommended changes to the legislation to further improve red tape reduction and clarity in application of the Act. These include:

- Requirement for local government input to the development of biosecurity tools where they directly relate to local government operations and obligations;
- Inclusion of the State Land Pest Management Framework in the Bill or regulations to identify this as the mechanism by which the relevant State departments may discharge their general obligations;
- Inclusion of a statement that clarifies that local governments' obligations do not extend to State or Commonwealth lands unless under agreement by all parties; and
- Inclusion of a clause/section allowing a local government or groups of local governments to include locally significant species in its/their Biosecurity Plan, thereby removing the need for the preparation of local laws.

The LGAQ continues to support the inclusion of Penalty Infringement Notices as a tool for local government enforcement for appropriate breaches of the legislation.

Please feel free to contact Dorean Erhart, Principal Advisor – Natural Assets, NRM & Climate Change via telephone on (07) 3000 2202 or by email at: dorean_erhart@lgaq.asn.au to discuss local government input on the action plan.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Greg Hoffman', is written over a light blue horizontal line.

Greg Hoffman PSM

GENERAL MANAGER – ADVOCACY

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32		CHAPTER 1 PRELIMINARY	
35	4(2)(b)	... <i>“the transfer of diseases from animals to humans and from humans to animals”</i> ...	As per 2011 submission – recommend changing to “zoonosis” and define in Dictionary If retaining the sentence as is, consider adding “the transfer of parasites from animals (emerging, non-endemic and exotic pests) to humans <i>and from animals to animals</i> .”
35	5(a)	Note and support the inclusion of a general obligation on all persons.	
36	5(f)&(g)	Note and support the provision to develop codes of practice and guidelines which ensure a variety of ways in which persons can discharge their obligations and reduced regulatory burden. COMMENT: For the full benefit of these new tools to be realised, Biosecurity Queensland will need to be appropriately resourced to facilitate and where required develop the codes of practice and guidelines to support industry and local government in the efficient and timely discharge of their obligations under the Act. Additionally, one of the benefits of these tools is the ability of industry or other sectors (including local government) to identify and develop codes of practice or guidelines they see necessary. However, Biosecurity Queensland will need to have resources available to actively participate in these initiatives.	Request that local governments are actively engaged and invited to provide input to the development of these tools where they directly relate to their operations and obligations.
37	7(1)	Commend the inclusion of a clear requirement on the State and Commonwealth to fulfill the requirements of the Act. COMMENT: The State and in particular Biosecurity Queensland, should maintain a coordinating role between all	Request that the preparation and review of the State Land Pest Management Framework be included in the Act or regulations as a mechanism by which the relevant State departments may discharge their obligations.

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		<p>State government departments that have a land management responsibility or that impact on land management responsibilities of other entities such as local government.</p> <p>LGAQ supports the State's continued commitment to the facilitation and support of the State Lands Pest Management Committee to ensure the years of coordination and relationship building achieved by this group are continued and enhanced.</p> <p>ISSUE: Councils have reported that there is a lack of common understanding about the inspection of State and Commonwealth lands as part of local government surveillance programs.</p> <p>Neither the State nor Commonwealth can be prosecuted under the Act and due to limited resources, it is local governments' view that surveillance of these lands is not its obligation and should be undertaken under agreement between a council and the relevant Department.</p>	<p>Seek inclusion of a statement that clarifies that local governments' obligations do not extend to State or Commonwealth lands unless under agreement by all parties.</p>
38	9(3)	<p>Note the provision to override a number of listed Acts</p>	<p>Request the inclusion of the Heritage Act to ensure invasive plants captured under a heritage listing can be appropriately managed under this Act.</p>
40	15 (2)	<p>Biosecurity matter definition</p>	<p>Suggest including "<i>seeds and spores</i>" in italicized example.</p>
42	19, 20 & 21, 22	<p>Commend the incorporation of the LGAQ's previous recommendation to include more detailed definitions for prohibited and restricted matter.</p>	
43		<p>CHAPTER 2 SIGNIFICANT OBLIGATIONS AND OFFENCES</p>	
43	23	<p>ISSUE: All council employees with a land management or operational role that requires them to work outdoors in any capacity including for example, parking and water meter</p>	<p>The LGAQ requests that Biosecurity Queensland prepare information materials that can be used by councils to allow them to easily meet this requirement.</p>

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		<p>inspectors, will need to be made aware of their general obligations and what minimum reasonable and practical measures they must take.</p> <p>This presents a resource and training cost to all local governments in Queensland.</p>	Such materials will be needed for State employees also.
	27	Aggravated offences—significant damage to health and safety of people or to the economy or environment.	Suggest the inclusion of examples, including defining propagation and sale of a plant species known to be highly invasive as <i>reckless</i> .
50	30(3)(a)(iii)	<p>Reason to remove a species from the prohibited list: ... “<i>the rate of spread of the biosecurity matter means that it is likely to spread over a large area of the State</i>” ...</p> <p>This clause requires greater clarification as to why the rate of spread and wide distribution is a reason to remove a species from the prohibited list. These factors are a common reason for including most species on the prohibited list.</p> <p>The demonstrated inability to be able to prevent or control a prohibited species at the time of its introduction to the State could be a valid reason to remove it from the list.</p>	Recommend redrafting to: “the rate of spread <u>and lack of effective and economically viable treatment options</u> means that it is likely to spread over a large area of the State”
53	36	Note and support the obligation for reporting the presence of prohibited and restricted matter to the State.	
	41	<p>While there is an obligation on all persons to meet the requirements of the Act, access to information to ensure all persons can meet this obligation is essential.</p> <p>The State has committed to making up-to-date listing of all restricted matter available on the department’s website, however, there is a need for a mechanism to provide notifications of changes.</p>	<p>Suggest the development of a subscription option and communicate to manage amendments as part of the administration of the schedules.</p> <p>Additionally, suggest the publication of amendments to the schedules in relevant State paper and web based publications.</p>

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		CHAPTER 3 MATTERS RELATING TO LOCAL GOVERNMENTS	
66	48(1)(a)&(b)	<p>“S 48 Main function of local government <i>(1) The main function under this Act of each local government is to ensure that the following biosecurity matter (invasive biosecurity matter for the local government’s area) are managed within the local government’s area in compliance with this Act —</i> <i>(a) prohibited matter mentioned in schedule 1, parts 3 and 4;</i> <i>(b) prohibited matter taken to be included in schedule 1, parts 3 and 4 under a prohibited matter regulation or emergency prohibited matter declaration;...</i>”</p> <p>Councils have requested reassurance that the State will continue to be responsible for responses to incursions of prohibited invasive biosecurity matter.</p> <p>Undertaking a prevention and control program for prohibited invasive biosecurity matter requires a level of detection skill and planning and management expertise and capacity that is not reasonably able to be held within an individual local government.</p>	<p>The review of the MoU on Local government, State government and regional NRM bodies’ roles and responsibilities under the existing Act was deferred until the new Bill was finalised.</p> <p>The LGAQ looks forward to working with the State and regional NRM bodies in the preparation of the new MoU.</p>
66	48(3)	<p><i>“Without limiting the Local Government Act, section 28(1) or the City of Brisbane Act, section 29, a local government’s local law may provide for the management of invasive animals and invasive plants, whether or not they are prohibited matter or restricted matter, in its local government area.”</i></p> <p>Note the specific inclusion of Local Laws as a mechanism for the declaration of locally significant invasive plants and animals.</p>	<p>Recommend the inclusion of a clause/section allowing a local government or groups of local governments to include locally significant species in its/their Biosecurity Plan.</p> <p>Recommend amendment of Section 233 What is a surveillance program to include an example under subsection (a):</p> <p><i>“A surveillance program is a program directed at any of the following—</i> <i>(a) monitoring compliance with this Act in relation to a particular matter to which this Act applies;</i></p>

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		<p>A number of councils have expressed the view that Local Laws are ineffectual for the management of locally invasive plants and animals predominantly because the shallow reach and scope and low penalties of local laws fail to act as an incentive to landholders to abide by them.</p> <p>The previous iteration of the Bill allowed local government to include locally significant species in its Biosecurity Plan thereby bringing them into the scope of the Act.</p> <p>Local government's preference is for a streamlined system administered under one Act and Regulation as opposed to the development of further red tape through making an additional Local Law.</p>	<p><i>Examples—...</i>"</p> <p><u>monitoring compliance with a Biosecurity Plan</u></p>
69	53	<p>FOR NOTING: Requirement for local governments to have a Biosecurity Plan (formerly Pest Management Plan) for a local government area.</p> <p>Plans can be used to clearly articulate how a local government may discharge its obligations under the Act.</p> <p>There is now no requirement for Ministerial sign off.</p>	<p>Clarification is required as to whether the Biosecurity Plan is intended to be a 'council only' plan or a 'local government area' plan incorporating the roles and responsibilities of other stakeholders as per the current requirements?</p> <p>If not, what avenues are available for other stakeholders to identify their proposed actions/activities to discharge their obligations?</p> <p>Will State departments have an obligation to provide input if asked by a local government?</p> <p>Are the plans to have a fixed term or continue indefinitely?</p>
74	60(4)	<p><i>"61 Minister must give local government report about activities</i></p> <p><i>The Minister must give each local government required under section 60 to pay the chief executive an amount for a financial year a written report for the year on the outcomes of services provided under this Act by the chief executive for activities relevant to the local government's area."</i></p>	<p>Suggest the inclusion of "<u>At the time of issuing the invoice</u>" at the commencement of S61.</p>

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		Comment has been received that it would be valuable to receive the Minister's report at the time of receipt of the invoice for next financial year's payment to ensure any questions arising about the value for money return on the investment can be answered.	
		CHAPTER 4 INVASIVE ANIMAL BARRIER FENCING	
75	62(2)(b)	Invasive Animal Board: <i>"state the invasive animal to be managed by the board"</i>	Invasive animal boards may choose to manage more than one animal at some point in the future. Suggest using " <u>animal/s</u> "
75	63(2)	<i>"An invasive animal board represents the State"</i>	There is currently an invasive animal board that is overseeing a wholly local government funded program. The LGAQ requests clarification about the effect of this clause on this board.
77	89	<i>"What is a barrier fence"</i>	Suggest it may be more efficient to define a barrier fence as a " <u>fence shown on a barrier fence map</u> ". This would allow flexibility to accommodate any changes or additions in the future.
		CHAPTER 5 CODES OF PRACTICE AND GUIDELINES	
92	104-109	The Code of Practice and Guidelines have the potential to be important tools that can allow greater definition of obligations and assist local government in enforcement and compliance activities.	Local government is seeking a State commitment to the timely development of high quality Codes of Practice, Biosecurity Zones and Guidelines.
	105	<p>"Consultation about codes of practice</p> <p><i>(1) Before the making of a code of practice under this part is recommended to the Governor in Council, the chief executive must consult with relevant entities - supported</i></p> <p><i>(2) Subsection (1) does not apply to the adopted provisions of a code of practice -</i></p> <p><i>(3) A failure to consult under subsection (1) does not affect the validity of the code of practice."</i></p>	<p>The LGAQ seeks clarification on why the adopted provisions do not require consultation with relevant entities? – suggest removing subsection (2)</p> <p>The LGAQ seeks clarification on why subsection (3) has been included. – request removing subsection (3)</p> <p>It is contradictory to require consultation but allow a code of practice to be valid without it.</p> <p>As local government will be the enforcement agency for many</p>

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			Codes of Practice, Biosecurity Zones and Guidelines relating to weeds and feral animals, the LGAQ recommends that consultation with local government be mandatory.
	107	<p>“(4) Before making a guideline, the chief executive must take reasonable steps to allow entities the chief executive considers may have an interest in the proposed guideline to give the chief executive written submissions about it. - supported</p> <p>Example—</p> <p>The chief executive might publish a notice in a newspaper circulating in the area in which interested entities reside seeking submissions about a proposed guideline.</p> <p>(5) A failure to allow the entities to give the chief executive written submissions about the proposed guideline does not affect the validity of it.”</p>	<p>The LGAQ seeks clarification on why subsection (5) has been included. – request removing subsection (5)</p> <p>It is contradictory to require consultation but allow a guideline to be valid without it.</p>
		CHAPTER 6 MANAGING BIOSECURITY EMERGENCIES AND RISKS	
120	Part 3	Biosecurity Zone regulatory provisions	Seek the inclusion of a subsection allowing a local government to establish a biosecurity zone for locally declared species contained within its Biosecurity Plan.
		CHAPTER 9 PROGRAMS FOR SURVEILLANCE, PREVENTION AND CONTROL	
193	235(1)(a) onwards	<p>A local government may authorize and carry out a biosecurity program (currently Pest Management Program)</p> <p>There is flexibility for the local government to determine the start and end dates and the locations to be surveyed.</p> <p>Advertising requirements have been streamlined.</p>	<p>Seek the inclusion of a subsection allowing locally significant invasive species listed in a Biosecurity Plan to be included in a Biosecurity Program.</p> <p>See comments and recommendation on page 4 under 48(3)</p>

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		<p>Biosecurity Program must state the powers that may be exercised by the authorised officer.</p> <p>The ability for local governments to include un- regulated invasive species that are listed in the pest management plans has been removed.</p> <p>As a result councils can only undertake the surveillance, prevention and control of species regulated under this Act.</p> <p>ALSO NOTE: Local governments can authorize a prevention and control program.</p> <p>However, it is clear from wording in Section 235 subsection (3) (a), (b), (c) & (d) that a prevention and control program is for rapid response relating to prohibited matter and other significant biosecurity risks currently dealt with by the State.</p>	
195	236, 237	Prevention and control programs	Text in sections 236 and 237 should clarify that the reference to “ <i>authorised officers</i> ” in relation prevention and control programs means public servants and not local government officers.
		The requirement for a local government’s CEO consent prior to the State involving the local government in a State authorised prevention and control program has been removed.	Request re-instatement of the requirement.
198	S239 (2)	<p>Requires a local government to, before authorising a biosecurity program, consult as far as practicable with the Chief Executive and a relevant invasive animal board.</p> <p>This was not a requirement under the current Land Protection Act and appears to be the addition of unnecessary red tape.</p>	<p>Request clarification on the reasons for the inclusion of this requirement.</p> <p>Suggest the removal of S239 subsection (2) if not necessary.</p>
199	240(3)(a)&(b) 240(5)	<i>“However, failure to give the notice to an entity under subsection (3)(a), or to publish the notice under subsection</i>	Seeking clarification as to the purpose of Section 240(5) – appears to contradict requirement for Section 240(3)(a)&(b)

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		<i>(3)(b), does not affect the validity of the biosecurity program."</i>	
202		CHAPTER 10 APPOINTMENT AND POWERS OF OFFICERS	
		The LGAQ made a request for the inclusion of Penalty Infringement Notices in its submission on the first Biosecurity Bill. DAFF has indicated that they have made appropriate requests to allow this and that the authority for local governments to issue PINs will be contained in the Biosecurity Regulations.	Seeking clarification on whether the head of power for local governments to issue PINs has been approved and if so, will it sit in the Biosecurity Regulation or the State Penalties Enforcement Regulation? Local government should be given timely opportunity to comment on the proposed PIN offences.
		CHAPTER 20 AMENDMENT OF ACTS	
405		SCHEDULE 1 PROHIBITED MATTER	
		Schedule 1 & 2 - several species (Currently class 1 under the <i>Land Protection (Pest and Stock Route Management) Act 2002</i> (LP Act)) have been relegated to lesser categories. Species include: <ul style="list-style-type: none"> • alligator weed (<i>Alternanthera philoxeroides</i>); • badhara bush (<i>Gmelina elliptica</i>); • cabomba (<i>Cabomba caroliniana</i>) • Chilean needle grass (<i>Nassella neesiana</i>) • gorse (<i>Ulex europaeus</i>) • honey locust (<i>Gleditsia triacanthos</i> including cultivars and varieties); • yellow ginger (<i>H. flavescens</i>); • hygrophila (<i>Hygrophila costata</i>); • Senegal tea (<i>Gymnocoronis spilanthoides</i>); • willows (all <i>Salix</i> spp. other than <i>S. babylonica</i>, <i>S. x calodendron</i> and <i>S. x reichardtii</i>) <p>Without an explanation of the rationale applied for their</p>	Request the Department provide the rationale and decision making process for downgrading species from prohibited to Restricted. Seek the ability to provide input before these lists are finalised. Invasive animals – “other than... cat (<i>Felis catus</i> and <i>Prionailurus bengalensis x Felis catus</i>)” should specify derivatives of <i>Prionailurus bengalensis x Felis catus</i> 5 generations removed from <i>Prionailurus bengalensis</i> as per the EPBC Act to avoid misinterpretation/loop holing.

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		downgrading it is not possible to make comment on these decisions.	
445		SCHEDULE 2 RESTRICTED MATTER	
		<p>Changes to the species previously listed as Class 1, 2 and 3 to the Prohibited list have occurred.</p> <p>Note the inclusion of candyleaf (<i>Stevia ovata</i>) as a cat 3.</p> <p>Note the inclusion of a Tramp Ants section and specifically the Yellow Crazy Ant as a local government responsibility in Schedule 2. It is well beyond the scope of local government to deal with tramp ants effectively.</p> <p>Other domestic animals such as cats and dogs have been listed as feral when they establish populations in the wild.</p> <p>Camels and to a lesser extent donkeys have not been included in schedule 2.</p>	<p>Rusa deer (<i>Rusa timorensis</i>, syn. <i>Cervus timorensis</i>) should read <u>feral</u> rusa deer in line with other established feral deer.</p> <p>Request the removal of yellow crazy ants and the Tramp Ants category generally as invasive biosecurity matter.</p> <p>Seeking an explanation of rationale for the decision not to declare feral camels and feral donkeys.</p> <p>Other recommendations specific to northern Queensland include the listing of:</p> <ul style="list-style-type: none"> • water buffalo (<i>Bubalus bubalis</i>) as <u>feral water buffalo</u>; • horse (<i>Equus caballus</i>) as <u>feral horse</u>; and • cattle (<i>Bos spp.</i>) be listed as <u>feral cattle</u>.
		GENERAL RECOMMENDATIONS	
		Local governments have reported issues with persons interfering with or obstructing actions the council is attempting to undertake to discharge their obligations under the Land Protection Act e.g. baiting and trapping.	Request the inclusion of an offence for persons found interfering with or obstructing an action or planned action to discharge a local government obligation under the Act.