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invasive species council

Chair
Agriculture, Resources and Environment Committee
Parliament House
Brisbane Qld 4000
By email: arec@parliament.qld.gov.au

15 January 2014

Dear Chair,

## Submission to Inquiry into the Biosecurity Bill 2013

The Invasive Species Council appreciates the opportunity to comment on the Biosecurity Bill 2013. We apologise for submitting this submission after the closing date. We contacted the committee staff to inform them of our inability to meet the submission deadline. The overlap of the consultation period with the holiday period has made it difficult to respond earlier.

As a result of the limited time to make submissions, we wish to make some general points about the positive aspects of the Bill and possible improvements. Please find our submission attached.

One issue not addressed in the submission is the need for resources to implement the legislation. Recent trends in Queensland have seen reduced levels of government expenditure in biosecurity programs and research, which compromise the ability of Biosecurity Queensland to carry out basic biosecurity functions. Greater investment in biosecurity will deliver long-term financial and public benefits.

We are willing to present evidence if there is an opportunity to do so before the inquiry report date.

I can be contacted on 0438 588 040 (mob) or email andrewcox@invasives.org.au

Yours sincerely

Andrew Cox
CEO

# Submission to Parliamentary Inquiry into the Biosecurity Bill 2013

## Prepared by the Invasive Species Council

January 2014

## Introduction

The Invasive Species Council is a national community organisation that advocates for stronger laws, policies and programs to protect the Australian environment from invasive species. We are guided by the latest science and focus in particular on emerging and future threats.

Invasive species are consistently rated by scientists as one of the top two or three threats impacting Australia's natural environment, and nationally they threaten more species and communities listed under Federal environmental laws than any other factor apart from habitat loss. Therefore, biosecurity legislation is amongst the most important of Australia's environmental laws and should be equipped with best practice environmental tools.

## Invasive species in Queensland

Invasive species pose a significant threat to Queensland's natural environment. Already 19 mammal, 13 bird, three reptile and one amphibian animal species have established in Queensland The last ten years has seen this number increase with the arrival of the yellow crazy ants and Asian honeybee. Cane toads continue to spread south and west across Queensland while there is a major national effort underway to eradicate red imported fire ants from areas south of Brisbane.

There are at least 1260 introduced plant species in Queensland with 23 of these being 'weeds of national significance'. A further 66 introduced plant species were found in Queensland in the period 2006-2011, including Mexican feather grass and candy leaf.

Myrtle rust, a deadly fungal disease, was first detected in Queensland in 2010 and will affect plants of the Myrtaceae family that dominate Australia's forests and woodlands.

The State of the Environment Queensland 2011 report says, "Terrestrial pest plants are widespread across Queensland. The number of species increases from west to east, and there is significant potential for the number of weed species present in Far North Queensland to increase."[1]

There are regularly new incursions of pests and diseases and Australia's quarantine officials and internal surveillance by biosecurity Queensland seek to prevent the establishment of the worst such as the red-eared slider, the American corn snake, Chilean needlegrass, Alligator weed and the black spined toad.

Queensland, being close to Papua New Guinea and subject to high volumes of cargo movements though its ports is particular susceptible to new outbreaks.

Major internal sources of new species becoming established in the wild in Queensland are the pet, aquarium and nursery industries, private gardens and pasture grass research projects.

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[1] Page 39

2 Csurhes S, Randall R, Goninon C, Beilby A, Johnson S and Weiss J (2006). "Turn the Tap Off before You Mop up the Spill': Exploring a Permitted-List Approach to Regulations over the Sale and Interstate Movement of Potentially Invasive Plants in the States and Territories of Australia. *Proceedings of the 15th Australian Weeds Conference*. C Preston, JH Watts and

## Biosecurity Bill 2013

We strongly welcome the Biosecurity Bill 2013. It represents a clear improvement compared with current legislation. It applies many important principles such as the duty of care and the precautionary principle. A number of improvements could be made.

## 1. Supported measures

The Invasive Species Council supports the following measures in the Biosecurity Bill 2013.

a. Duty of Care Obligation

We strongly support the requirement that all biosecurity participants exercise a general biosecurity obligation to take all reasonable and practical measures to prevent and minimise biosecurity risks.

It is particularly appropriate to apply a broad duty of care requirement for invasive species given the potential long-term and irreversible consequences of poor practices and the multiple pathways for their spread. One person's action with an invasive plant or animal can ultimately have adverse impacts across vast areas and on many people and species for centuries to come. It can cost future taxpayers millions of dollars in control. There is no way of explicitly regulating all actions potentially resulting in invasive impacts, so requiring that people exercise care and assisting them with information and resources to do so can fill in some gaps. It is consistent with the national principle that biosecurity is a shared responsibility.

The legal obligation will need to be complemented by public education to promote widespread attitudinal and behavioural change, and to motivate a more serious approach to biosecurity akin to that of hygiene and public health. It will also need to be enforced.

b. Precautionary approach

We support the strong reference to the precautionary principle for risk-based decision-making in the legislation (Section 5 (c)). This principle is of fundamental importance for environmental decision-making because of the prevalent high levels of uncertainty about invasive species impacts in the natural environment, the long timeframes over which invasions occur and the often-limited management options. The precautionary principle is already applied to decisions about imports of live specimens under the Federal EPBC Act.

c. Agreement-making provisions

We support the ability to provide for Queensland to enter into intergovernmental agreements with the Commonwealth or another State to recognise biosecurity certificates and to provide a statutory basis for the Minister or chief executive to enter into a government-industry agreements (Ch 14, Pt 2). However the government-industry agreements should be expanded to allow non-industry players to be part of an agreement. See 'partnerships' under improvements below.

d. Codes of Practice and Guidelines

We support the use of codes of practice and guidelines in the legislation outlined in Chapter 5 of the Bill. Implementing approved codes of practice, guidelines or management plans are recognised ways of demonstrating compliance with a duty of care. Certain activities with risks of weed spread may be amenable to management via codes of practice or regulation, including some forestry practices, cultivation of species with invasive risk, field trials of potentially invasive plants, landscaping of residential developments and streetscaping, and the sale of some potentially invasive species.

However, there are good reasons to be sceptical about voluntary industry codes of practice, as they often substitute for adequate regulation, and lack adequate reporting and compliance measures. It is important to distinguish between activities best explicitly

managed by regulation, particularly where there is a high risk of harm or where compliance is otherwise likely to be an issue, and those amenable to codes of practice.

Effectiveness requires that codes of practice are linked to legislation to ensure the standards proposed are adequate to demonstrate compliance with a duty of care, and that they are enforceable. Accountability will be improved with wide standing for enforcement and requirements for public reporting.

Compliance with a code of practice could also be linked to economic incentives with businesses not demonstrating compliance with a code liable to higher 'risk creation' levies or bonds. Any codes of practice require a regular review to assess whether objectives are being met, and changes in the code or a shift to regulation if the objectives are not being met.

The Bill includes some common circumstances where a code of practice may be required (Section 104). This list mostly deals with agricultural threats. The circumstances for making a code of practice in the Bill could be expanded by making specific provision for some commonly expected codes of practice that address environmental biosecurity threats eg

i) labelling and trade of businesses and individuals that sell or collect plants (and plant material), pets, birds, fish and reptiles

ii) plant research because of the risk of breeding new genetic variants which may post a high biosecurity risk and the need to quarantine and dispose of this new plant material during the research process.

## 2. Improvements

The Invasive Species Council suggests the following improvements to the Biosecurity Bill.

a. Partnerships

It is very much in the public interest and beneficial also for commercial interests for governments to support the community, including environmental NGOs, to participate in biosecurity processes. This is acknowledged as a principle of the Bill, which includes 'providing for a framework that improves the capacity of…the community generally to respond to biosecurity risks' (Section 5(h)).

There has been much talk Australia-wide of the importance of a partnership approach to biosecurity, particularly since the Beale review's 'One Biosecurity' report but there has yet to be any serious consideration about what it requires.

The community is interested in the environmental and social impacts of invasive species and often participates or leads in eradication and control efforts, often on a voluntary basis. Indigenous groups are major participants in land management. Bodies reliant on volunteers such as Landcare, 'Friends of' and recreational groups are active, while there are many professional bodies such as Greening Australia and Bush Heritage. Scientists and research bodies play an important role too.

Basic elements of community engagement include giving the community ready access to information and representation in policy processes, consulting with relevant stakeholders and being transparent about decision-making and priorities and legal standing to enforce biosecurity laws. These principles should form part of the Biosecurity Bill.

One specific change to acknowledge the important role of the community would be to allow partnerships with the government to include non-industry bodies. At present the Bill only allows agreements between governments or with industry representatives. The inclusion of community bodies in such agreements will confirm their role in supporting Queensland's biosecurity efforts such as through surveillance, control and education programs and the provision of advice about scientific and technical matters and community perspectives.

b. Listing structure and a 'permitted list'

There are strong benefits in using a permitted list approach, particular for plants. This would require a risk assessment of all new non-indigenous taxa not on a permitted list and allowing the sale and movement only of low-risk plants.

This approach already operates for proposed new introductions to Australia (from overseas) and to Western Australia. It involves establishing a permitted (or a 'safe') list of taxa and prohibiting or requiring risk assessment of taxa (species, subspecies and variants) not on that list. The complementary list of prohibited and restricted matters identifies plants that do not pass the risk assessment or that are already declared and prohibited.

All proposed introductions of plants not indigenous to Queensland should be assessed for weed risk. This includes plants native to Australia but proposed for planting outside their natural range. Native weeds like golden wreath wattle (*Acacia saligna*) can be just as invasive as exotic weeds. Assessment should also apply to new varieties of existing introductions that could increase the weed risk.

A permitted list approach is the only feasible way to prevent the establishment of new invasive species

The permitted list approach is based on a straightforward concept applied to many other types of goods – don't permit the sale or movement of plants unless they meet safety standards (biosecurity safety). It is required, for example, that all foods and toys meet legislated safety standards. There is strong support for a 'safe' list approach by many environment NGOs, bush regeneration groups, regional weed committees and local governments in other states and historically from within biosecurity agencies, as exemplified by a 2006 paper by biosecurity officers from six states recommending it.[2]

Queensland should work with other state/territory governments, particularly Victoria, NSW and the ACT, to promote the adoption of a permitted list approach across all states, with consistent mechanisms. This would reduce confusion for plant industries and increase efficiency (allowing states to share resources). The proposal could be adopted by the Council of Australian Governments, as part of implementing recommendation 23(1) of the Hawke review of the EPBC Act: 'the Council of Australian Governments (COAG) develop criteria and management protocols for the movement of potentially damaging exotic species between State and Territories, working towards a list of 'controlled' species for which cost effective risk mitigation measures may be implemented.' However, this should not delay Queensland's development and implementation of a permitted list approach.[3]

There will of course be objections raised to the safe list concept, including probably perceived problems of cost, feasibility and impacts on industry. It is important to examine how the system works in Western Australia but the system would be different in Queensland because of the different circumstances applying at the Queensland border with NSW. Western Australia has a commendable focus on border inspections, requiring imported plants to be inspected at a bonded warehouse facility in Perth and be treated for pests and diseases. This wouldn't be feasible for Queensland. Just as occurs for many other goods, enforcement of standards would have to depend on audits of plants for sale and public reporting of breaches. There would have to be a phase-in of the approach to allow for adjustment. There will be costs involved in the setup and for enforcement, but any

2 Csurhes S, Randall R, Goninon C, Beilby A, Johnson S and Weiss J (2006). "Turn the Tap Off before You Mop up the Spill': Exploring a Permitted-List Approach to Regulations over the Sale and Interstate Movement of Potentially Invasive Plants in the States and Territories of Australia. *Proceedings of the 15th Australian Weeds Conference*. C Preston, JH Watts and ND Crossman, Weed Management Society of South Australia Inc, Adelaide: 95-98.

3 For more details about a permitted list approach, see Invasive Species Council (2009). *Stopping Weed Invasions: A 'White List' Approach* http://www.invasives.org.au/page.php?nameIdentifier=backgrounders.

cost-benefit analysis should find the public benefit and economic gains far outweigh the costs.

The Bill uses a permitted list approach to some pest animal groups by stating that all amphibian, reptiles and mammals that are not listed elsewhere are automatically regarded as a 'prohibited matter'. This approach should be extended to plants and other animal classes including some groups of invertebrates.

The structure of the lists would be improved by having an explicit 'permitted matters' list to clarify those species that are regarded as having low biosecurity risk. By default, any matters not listed as permitted matters or restricted matters would be regarded as prohibited matters.

The listing of species should also include a requirement that new subspecies of permitted matters would need to undergo a risk assessment before being permitted. This would prevent the introduction of more invasive cultivars and hybrids and limit the potential for combination with existing varieties to increase invasive risk. Many grasses are bred to be more drought-tolerant and aggressive, increasing their invasiveness and posting a greater risk to the natural environment.

c. List contents

There are some changes to the species listed as either prohibited or restricted matters when comparing the current legislation with the proposed Bill. We have been unable to find information that justifies these changes.

For example, it is unclear why Yellow Crazy Ants are listed as 'restricted matter' class 3 (a requirement not to distribute or dispose of the ant) rather than class 1 (the stronger listing for Red Imported Fire Ants). Yellow crazy ants are one of the most damaging environmental invaders in Queensland and it is feasible to eradicate them because their queens don't fly.

Blackbuck antelope, regarded as class 1 under the current Land Protection (Pests and Stock Route Management) Act 2002 (and thus not regarded as present in the wild in Queensland) is proposed in the Bill to be a restricted matter. This species is a high risk of establishing in Queensland, would cause considerable damage if it became established, and should be listed as a prohibited matter.

When adding to the list of prohibited matters, there is a requirement in the Bill for the Minister to be satisfied that "prompt action is required to declare the matter to be prohibited matter" (Section 30 (2)(b)). It is unclear why this requirement exists. Some additions may be made to the list of prohibited matters that may be precautionary in nature and therefore non-urgent. This provision appears to prevent additions of low priority matters in advance of a future outbreak and should thus be deleted.

d. Role for Minister of the Environment

Because of the importance of biosecurity to conservation, the Environment Minister should have a statutory role in decision-making and policy direction on important environmental biosecurity issues, including listing of prohibited and restricted matters and emergency listings. Because biosecurity is of extremely high priority to both the agricultural and environmental sectors, the most rational institutional arrangement is a joint agricultural-environmental biosecurity unit. In the absence of this, there should be formal arrangements between the biosecurity and environmental agencies to maximise efficiency and effectiveness in prevention, containment and control of invasive species.

e. Purposes

The purpose statement of the Bill appears satisfactory. It includes the need to protect the natural environment. The importance of the environment could be made more explicit given the low priority given to the natural environment in biosecurity the past.

Two additional factors to achieve the purposes that could be highlighted in Section 5 are i) the benefits of adopting an approach based on the hierarchy of prevention, eradication, containment, control and asset protection approach and ii) that the risk creator should bear some responsibility. The importance of the preventative approach is acknowledged in the Queensland Biosecurity Strategy 2009-14 and the hierarchy proposed is articulated in national and many state biosecurity documents. Policies in other states, such as Victoria, seek to recoup the costs of biosecurity action from those that generate the risk, eg pine plantation owners for the effort in removing pine wildlings from neighbouring properties.

The principle of ecologically sustainability development should also be applied to decision-making and referred to in Section 5. This includes the conservation of biodiversity and the importance of intergenerational equity, valuation and pricing and public participation. This has been defined in Federal legislation.

It is unclear why the safety and quality of animal feed, fertilisers and other agricultural inputs is highlighted in the purposes statement (Section 4 (b)) when this issue is picked up elsewhere in the purposes statement. Other risks could equally be highlighted, such as need to protect human health, social amenity and the environment.

f. Listing process

The declaration of pest species should be systematic and efficiently based on criteria consistent with sustainable development principles and advice by a scientific committee that includes ecologists and other experts. The Minister can then determine the required management response eg. eradication, containment or control to protect particular assets by taking into account non-biological and practical factors such as feasibility, costs, benefits and landholder capacity. Decision-making information and the rationale must be publicly accessible.

The process for declarations should be made much more rapid to expedite early action and eradication.