



**Parliamentary Committee Review
Into the
*Biosecurity Bill 2011***

Submission

Local Government Association of Queensland Ltd

16 December 2011

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individual needs. The LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

Submission

The LGAQ commends the State on undertaking the very large task of modernising its biosecurity legislation. The Association has supported the development of the Bill through its representation on the Biosecurity Bill Reference Group and the formation of a local government technical working group to provide regular input throughout the process.

Local governments in Queensland view biosecurity matters and invasive plants and animals, as one of the most significant threats to productivity, human well being and the environment and collectively expend tens of millions of dollars of limited resources per annum in an effort to reduce the impacts of invasive plant and animal species. Developing legislation that provides appropriate powers and tools to be able to undertake this work in a cost efficient and most importantly, effective, manner is a very important first step in ensuring these impacts are reduced.

The new Bill introduces new tools and powers that are a significant improvement on the current legislation. However, in local governments' view there are a few key issues of concern:

Local government functions

The State made a commitment to limit local government functions in biosecurity matters to invasive plants and animals. The Bill's attempt to define this in S.45 however, is not definitive enough to avoid the potential for re-interpretation of these responsibilities through statements in other sections of the Bill.

Recommendation:

Amend wording in Section 45 (S.45) to clearly limit local government functions to invasive plants and animals only.

Review terminology in the remainder of the Bill to clearly reflect local government functions as defined in S.45.

Invasive Animal Barrier Fencing

The LGAQ is generally in agreement with the new provisions for invasive animal barrier fencing with the exception of the following items:

Funding of the proposed Board and operations

Chapter 16 does not clearly identify the State or any other parties as being responsible for the funding of the fences or board. The Association feels it would be appropriate for the State to increase its contribution to the fences and board, to at least match local governments' and seek additional funding from direct beneficiaries of the fences from within relevant industries.

Local government representation on the Board

Local government currently contributes the majority of funding to the existing wild dog and rabbit fences but under the proposed make up of directors, will not have the majority representation, with only three local government directors, one state government employee as a director and two directors to be appointed by the Minister. This is unacceptable to local government.

Recommendation:

Include a clause identifying the key funding stakeholders for the invasive animal fences and board.

That the balance of local government representation be increased on the board to better reflect current financial contributions.

That the State increases its contribution to the fences and board, to at least match that of local governments’.

Local government annual payments to the Land Protection Fund

While S.64 (1) states the Minister “may...require a local government to pay an amount for a financial year...” this has been a mandated requirement by the State for many decades and the LGAQ believes the State intends to continue to require these payments under the new legislation. To the author’s knowledge, no other State government department incurs a general charge to provide non-negotiated services that are for broader public benefit and we would argue are a State responsibility.

In a modern society, requiring payment from local governments to the State for largely unspecified works with undefined outcomes is difficult to justify.

The Association notes the inclusion of S66 and S68 in the Bill which now provides for consultation with local government on what activities are to be funded by local government money collected through precept payments and that the state will report annually on the achievement of the activities it was funded to undertake. However, local government is concerned about the level of consultation that is likely to be undertaken and the detail to be included in the annual reporting.

Recommendation:

That the State in consultation with the LGAQ, develop and include in the regulations for the Bill a fair, representative and transparent system for the consultation of local government in the activities to be funded by local government payments.

That the State in consultation with the LGAQ, develop and include in the regulations for the Bill a fair, and transparent system for the calculation of local government contributions to the activities to be funded by local government payments.

That the State, in consultation with the LGAQ, develop and include in the regulations for the Bill the detail that must be supplied in the annual report required under S66.

Power to State and local government authorised officers to serve Penalty Infringement Notices (PINS) for invasive plants and animals offences

It is important that legislation sets the benchmark in terms of the level of seriousness the State places on the matters covered under the legislation. To this end, local government and the LGAQ believe the State has not reflected the level of seriousness or significance of biosecurity matters and particularly invasive plants and animals in the current legislation or in the new draft Bill, because it does not provide the head of power for authorised persons to issue Penalty Infringement Notices (PINS).

It is understood that there must be clear and defensible evidence of a breach before a PIN can be served. Where enforcement policy and processes have been properly followed, this evidence is readily available for both invasive plants and animals therefore there is no obstacle to allowing the power to issue PINS. The Environmental Protection Act contains the ability to serve PINs for environmental matters of equal importance to those of biosecurity matters.

Including this head of power in the new Bill will send a clear message of the seriousness with which the State views deliberate breaches of this legislation. Additionally, it would allow those local governments who choose to utilise this power, to recoup a small proportion of the costs of enforcement, which runs into millions of dollars per annum.

Recommendation:

Amend the Bill to provide for the power to issue Penalty Infringement Notices by both State and local government authorised officers.

Non compliance by State government departments and underfunding by the State of State government departments for the management of invasive plants and animals

Unfortunately, this is a perennial issue for Queensland local governments where their own management and enforcement efforts and the efforts of private landowners and regional NRM bodies

are undermined by the inconsistencies in and frequent failure of State government departments to meet obligations under State legislation on lands under their management.

While the new Bill places a general obligation on all persons, that obligation is unable to be enforced against State or Federal departments allowing a level of unaccountability that is currently exploited.

Local governments have come to question the value of legislation when some of the largest land holdings in their local government area (in particular national parks) are outside of the law. LGAQ notes that the state is currently preparing a new State Land Pest Management Framework. The Association has only recently been invited to a briefing about the Framework and appreciates the opportunity to provide input, however at this time we are unable to comment on whether the framework is likely to address local governments' concerns.

A chief concern is that the Queensland State Government has chronically underfunded Biosecurity Queensland and in particular Queensland Parks and Wildlife, sending a clear signal that biosecurity matters, in particular invasive plants and animals, are not an important issue. This contradicts with the State's own environmental policies and the Queensland Biosecurity Strategy. Additionally, Biosecurity Queensland currently appears to be reducing its workforce, with voluntary redundancies and unfilled vacancies.

Recommendation:

Amend the Bill to require all State government departments with land holdings to prepare Biosecurity Plans in consultation with local government and other key stakeholders.

That the State sets an example and increases funding to Biosecurity Queensland to ensure implementation and enforcement of the new Bill reflects the level of seriousness with which all biosecurity and invasive plant and animal matters are regarded.

That the State increases funding to State departments, in particular Queensland Parks and Wildlife to enable an acceptable level of compliance with the new Bills obligations.

Please don't hesitate to contact Dorean Erhart, Principal Advisor – Natural Assets, NRM & Climate Change on 3000 2202 or at dorean_erhart@lgaq.asn.au should you wish to discuss any aspect of this submission.