

Prevention and Control Program for Tropical Weeds under the *Biosecurity Act 2014*

***Miconia calvescens, Miconia nervosa, Miconia racemosa, Mikania
micrantha and Limnocharis flava***

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1 Biosecurity program

1.1 Program name

The prevention and control program (a biosecurity program under the Act) for the tropical weeds *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava* will be known as the Prevention and Control Program for Tropical Weeds (the Program).

2 Requirement for a prevention and control program

2.1 Purpose and rationale

Significant biosecurity risk

The *Biosecurity Act 2014* (the Act) provides for the establishment of biosecurity programs. Prevention and control programs are directed at any of the following—

- (a) preventing the entry, establishment or spread of biosecurity matter in an area that poses a significant biosecurity risk;
- (b) managing, reducing or eradicating any biosecurity matter in an area that could pose a significant biosecurity risk.

The objective of the Program is to implement the treatment components required under a national agreement¹ for the eradication of tropical weeds in areas of Queensland where they pose a significant biosecurity risk.

The tropical weed species *Miconia calvenscens*, *Miconia racemosa*, *Miconia nervosa*, *Mikania micrantha* and *Limnocharis flava* are all listed as restricted matter under the Act. Each has been assigned restriction categories 2, 3, 4 and 5. A person has an obligation to report² the presence of category 2 restricted matter to an authorised officer; not distribute or dispose of category 3 restricted matter³; not move, or cause or allow to be moved category 4 restricted matter; and must not keep in a person's possession or under the person's control category 5 restricted matter.

All five species pose or are likely to pose a significant biosecurity risk to agricultural production and the environment in tropical and subtropical Queensland.

A national agreement and cost-shared program for the eradication of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava* from Australia commenced in 2002. The key activities under the national program include:

- Surveillance to check for the presence, extent or levels of the presence, or absence of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava*.
- Treatment operations to eradicate any detected *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava* plants.
- Monitoring of treated areas until the seed banks of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava* in the soil are depleted and exhausted.
- Declaring an area free of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava*.

¹ The National Four Tropical Weeds Response Plan.

² Section 42 (Reporting presence of category 1 or 2 restricted matter) of the Act.

³ Section 43 (Distributing or disposing of category 3 restricted matter) of the Act.

A benefit-cost analysis of the national program was undertaken by the Australian Centre for Biosecurity and Environmental Economics in 2014. The Benefit to Cost Ratio for continuing the objective of eradication was 46:1. To date, over \$11 million has been invested in eradicating these five species in Australia, and a new 3-year Response Plan 2015-18 was approved in December 2015.

Previous independent reviews of the national program have confirmed positive progress towards eradication and that the program continues to meet National Environmental Biosecurity Response Agreement (NEBRA) technical feasibility criteria for eradication.

The national program for tropical weed eradication has been operating since 2002. Treatment and surveillance activities have been carried out during this time with minimal impact on the community. The Queensland component of the national program operated under a Pest Survey Program established under the *Land Protection (Pest and Stock Route Management) Act 2002* that allowed the power of entry to undertake eradication activities. Over the 15 years that the national program has operated there have been limited issues when these powers of entry have been exercised.

This Program authorises the prevention and control activities required to implement the treatment components of the national program, in relation to areas within Queensland where tropical weed species pose a significant biosecurity risk.

2.2 Measures that are required to achieve the purpose

The key activities undertaken by the Program include but are not limited to:

- Treatment operations to eradicate or remove any detected *Miconia calvescens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava* plants within Queensland, using a variety of techniques including:
 - hand pulling; and
 - specifically targeted herbicide application methods including cut-stump, overall foliar spray and splatter gun techniques using herbicides registered by or used under a permit granted by the Australian Pesticides and Veterinary Medicines Authority (APVMA).

2.3 Powers of authorised officers

Entry of place

The Act provides that authorised officers appointed under the Act may, at reasonable times, enter a place situated in an area to which a biosecurity program applies, to take any action authorised by the biosecurity program⁴. These activities must be done in a timely and efficient manner to ensure that the measures are as effective as possible. The Program will authorise entry into places to allow these measures to be undertaken.

In accordance with the Act a reasonable attempt will be made to locate an occupier⁵ and obtain the occupier's consent to the entry prior to an authorised officer entering a place to undertake activities under the Program. Nevertheless, an authorised officer may enter the place if⁶— the authorised officer is unable to locate an occupier after making a reasonable attempt to do so; or the occupier refuses to consent to the entry.

If after entering a place an authorised officer finds an occupier present or the occupier refuses to consent to the entry—an authorised officer will make reasonable attempts to produce an identity card for inspection and inform the occupier of the reason for entering and the authorisation under the Act to enter

⁴ See section 261 (Power to enter a place under biosecurity program) of the Act.

⁵ The Act defines an **occupier**, of a place, generally to include the person who apparently occupies the place (or, if more than 1 person apparently occupies the place, any of the persons); any person at the place who is apparently acting with the authority of a person who apparently occupies the place; or if no-one apparently occupies the place, any person who is an owner of the place.

⁶ See section 270 (Entry of place under sections 261 and 262) of the Act.

without the permission of the occupier. An authorised officer under the Program must make a reasonable attempt to inform the occupier of any steps taken, or to be taken, and if steps have been taken or are to be taken, that it is an offence to do anything that interferes with a step taken or to be taken.

An authorised officer must leave a notice in a conspicuous position and in a reasonably secure way. This notice must state the date and time of entry and information addressing the reason for entry, authorisation to enter a place and the steps undertaken by the authorised officer after entry.

Giving a direction under a prevention and control program

Section 237 of the Act provides that an authorised officer may, at a reasonable time and at a place within an area to which the Program applies:

- direct an occupier to take reasonable steps⁷, within a stated and reasonable timeframe, to remove or eradicate *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava*; or
- destroy *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava*, if that authorised officer believes on reasonable grounds that they pose a significant biosecurity risk.

Failure to comply with a direction

Under section 238 of the Act, occupiers of a place are obligated to comply with an authorised officer's direction issued under section 237 of the Act, as outlined above.

Power to carry out aerial control measure

The power to carry out aerial control measures⁸ is authorised by a biosecurity program under the Act. This means that an authorised officer may carry out, or direct another person to carry out, aerial control measures for *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava* in relation to a place to which the Program relates

Obligations

The following obligations may be imposed on a person who is an occupier of a place to which the Program relates:

- Maintain access tracks to known *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava* infestations to allow access by authorised officers to undertake regular control activities; or
- Control (mow or treat with a herbicide) other weeds which may be obstructing an authorised officer undertaking the control activities for *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava*.

In addition to the Program specific obligations in the Program authorisation, under section 238 of the Act, occupiers of a place are obligated to comply with an authorised officer's direction issued under section 237 of the Act.

⁷ These steps must be limited to what is reasonably necessary to achieve the purposes of the Program.

⁸ See section 294 (Power to carry out aerial control measures under the biosecurity program) of the Act. Section 294 defines 'aerial control measure', for biosecurity matter, to mean an activity, done from the air by an airborne machine or a person in an aircraft, to achieve a purpose of a biosecurity program and includes the following—

- surveying and monitoring the biosecurity matter;
- distributing an agricultural chemical to control the biosecurity matter.

General powers of authorised officers

Nothing in this Program or its associated Authorisation limits the powers of authorised officers under Chapter 10 of the Act.

2.4 Consultation

Consultation with all local governments in Queensland has occurred prior to the commencement of the Program.

3 Authorisation of a Prevention and Control Program in the State of Queensland

I, Dr Elizabeth Woods, the chief executive of the Department of Agriculture and Fisheries (the Department) acting pursuant to section 235 of the *Biosecurity Act 2014* (the Act), authorise a Prevention and Control Program for *Miconia calvescens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava* in parts of Queensland, on the basis that:

- I am satisfied that the tropical weed species *Miconia calvescens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava* pose a significant biosecurity risk to biosecurity considerations in Queensland; and
- I am satisfied that measures are required to prevent the establishment of *Miconia calvescens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava* in the parts of the State of Queensland shown on the attached Map; and
- I am satisfied that measures are required to prevent the entry of *Miconia calvescens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava* into other areas of Queensland.

Dr Elizabeth Woods
Director-General
Department of Agriculture and Fisheries

Authorised on 02 / 06 / 2016

3.1 Biosecurity matter

The biosecurity matter to which the prevention and control program relates are the restricted matter tropical weed species - *Miconia calvescens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava*.

3.2 Purpose of the Program

The purpose of the Program is to allow entry of authorised officers to a place in the State of Queensland to undertake activity to remove or eradicate *Miconia calvescens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava*.

3.3 Area affected by the Program

The Program will apply to those parts of the State of Queensland shown on the attached Map.

3.4 Powers of authorised officers

An authorised officer of the Program, appointed under the *Biosecurity Act 2014*, may enter a place—other than a residence⁹—without a warrant and without the occupier's consent within the State of Queensland

⁹ The Act defines a **residence** to mean a premises or a part of a premises that is a residence with the meaning of s 259(2) and 259(3) of the Act

under the Program¹⁰. An authorised officer appointed under the *Biosecurity Act 2014* will also have the power to enter a place under the Program.¹¹

An authorised officer can exercise all the powers of an authorised officer under the Act in relation to the Program, if the authorised officer is appointed by the chief executive¹². An authorised officer has general powers after entering a place¹³ to do any of the following:

General powers in the Act	Measures an authorised officer may take under the Program
Search any part of the place	Search a place to check for the presence of <i>Miconia</i> species, <i>Mikania micrantha</i> or <i>Limnocharis flava</i> .
Inspect ¹⁴ , examine ¹⁵ or film ¹⁶ any part of the place or anything at the place	Take samples for the purposes of diagnostic analysis, to ascertain the presence or absence of <i>Miconia</i> species, <i>Mikania micrantha</i> or <i>Limnocharis flava</i> .
Take for examination a thing, or a sample of or from a thing, at the place	Destroy a <i>Miconia</i> , <i>Mikania</i> or <i>Limnocharis</i> plant if the authorised officer believes on reasonable grounds the biosecurity matter poses a significant biosecurity risk
Place an identifying mark in or on anything at the place	Undertake control activities such as hand pulling or herbicide application that is consistent with the objectives of the Program.
Place a sign or notice at the place	Direct an occupier of the place to take reasonable steps within a reasonable time to remove or eradicate the biosecurity matter to which the program relates.
Produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic document to another place to produce an image or writing	Produce a written and/or electronic note(s) to support Program activities.
Take to, into or onto the place and use any person, detection animal, equipment and materials the authorised officer reasonably requires for exercising the authorised officer's powers under Chapter 10, division 4	Take GPS coordinates to ensure accuracy of location details of <i>Miconia</i> species, <i>Mikania micrantha</i> and <i>Limnocharis flava</i> to assist with future actions undertaken by the Tropical Weeds Eradication Program.
Destroy biosecurity matter or a carrier if: <ul style="list-style-type: none"> • the authorised officer believes on reasonable grounds the biosecurity matter or carrier presents a significant biosecurity risk; and • the owner of the biosecurity matter or carrier consents to its destruction 	
Remain at the place for the time necessary to achieve the purpose of the entry	
The authorised officer may take a necessary step to allow the exercise of a general power	
If the authorised officer takes a document from the place to copy it, the authorised officer must copy and return the document to the place as soon as practicable	
If the authorised officer takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the authorised officer must produce the document and return the article or device to the place as soon as practicable.	

¹⁰ See section 259 (General powers to enter places) of the Act

¹¹ See section 261 (Power to enter a place under biosecurity program) of the Act

¹² Under section 255(3) (Powers of particular authorised officers limited) of the Act

¹³ See section 296 (General powers) of the Act.

¹⁴ Section 296(5) defines **inspect**, a thing, to include open the thing and examine its contents.

¹⁵ Section 296(5) defines **examine** to include analyse, test, account, measure, weigh, grade, gauge and identify.

¹⁶ Section 296(5) defines **film** to include photograph, videotape and record an image in another way.

Pursuant to section 237 of the Act an authorised officer may also give a direction to an occupier of a place within the area to which the Program applies to take reasonable steps to remove or eradicate *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava*. These steps must be limited to what is reasonably necessary to achieve the purposes of this Program. A penalty applies for failing to comply with a direction issued under this section.

An authorised officer may make a requirement (a **help requirement**) of an occupier of the place or a person at the place to give the authorised officer reasonable help to exercise a general power¹⁷

An authorised officer may carry out, or direct another person to carry out, aerial control measures for *Miconia calvenscens*, *Mikania micrantha* or *Limnocharis flava* in relation to a place to which the Program applies. Under the Program, these aerial control measures may be undertaken by manned helicopter or un-manned aerial vehicle (UAV) to:

- direct ground staff to the location of *Miconia calvenscens*, *Mikania micrantha* or *Limnocharis flava* plants so that the ground staff may undertake removal or eradication of the plants; or
- distribute an agricultural chemical to directly control *Miconia calvenscens*, *Mikania micrantha* or *Limnocharis flava* plants.

3.5 Obligations imposed on a person under the Program

The following obligations may be imposed on a person who is an occupier of a place to which the program relates:

- Maintain access tracks to known *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava* infestations to allow access by authorised officers to undertake regular control activities; or
- Control (mow or treat with a herbicide) other weeds which may be obstructing an authorised officer undertaking the control activities for *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava*.

3.6 Commencement and duration of the Program

The Program will begin on 1 July 2016 and will continue until the State of Queensland is declared free of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava*. The declaration of freedom will be made by the chief executive of the Department administering the *Biosecurity Act 2014*. The duration of the program is considered to be necessary to achieve the Program's purpose.

3.7 Consultation with relevant parties

As required by the Act¹⁸, I have consulted, prior to the authorisation of these Programs, with local governments across the State of Queensland, including those local governments within the areas affected by the Program.

3.8 Notification of relevant parties of requirements

As required by the Act¹⁹, I will give public notice of these Biosecurity Programs 14 days before the Program starts by:

- giving the notice, by way of letter to each government department or government owned corporation responsible for land in the area to which the Program relates; and

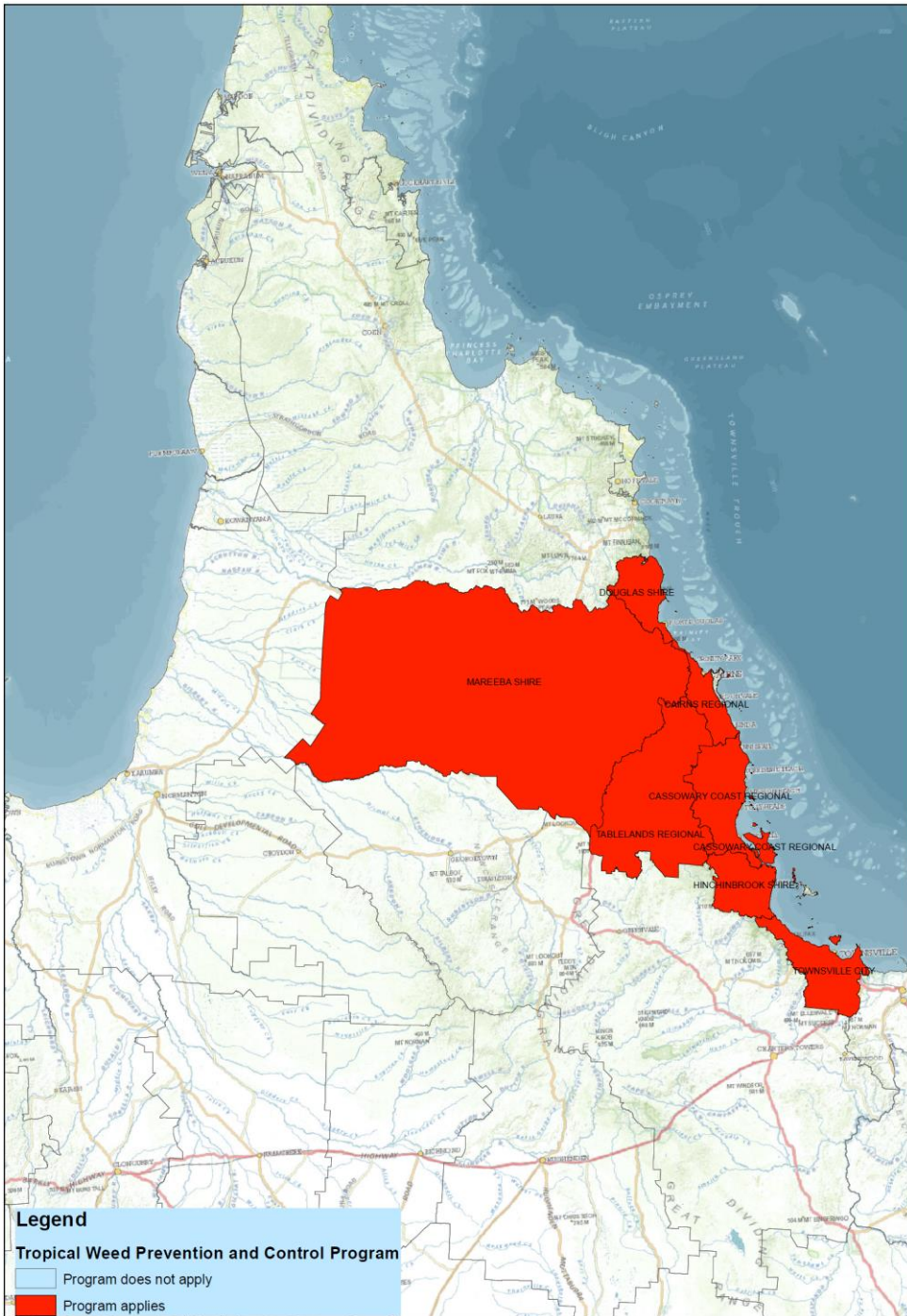
¹⁷ See section 297 (Power to require reasonable help) of the Act.

¹⁸ See section 239 (Consultation about proposed biosecurity program) of the Act.

¹⁹ See section 240 (Notice of proposed biosecurity program) of the Act.

- placing the notice on the Department’s website; and
- placing the notice in newspapers circulating in the prevention and control area, as appropriate.

A copy of the Program (including its Authorisation) is available for inspection at the Department of Agriculture and Fisheries head office at 80 Ann Street Brisbane and regional offices. A copy of the Program is also available to view and print at no cost on the Department of Agriculture and Fisheries website at www.daf.qld.gov.au. A copy of the Program Authorisation will be provided on request by contacting the Department of Agriculture and Fisheries Customer Service Centre on 13 25 23.



Map 1: Area affected by the Program