

**Productivity Commission Inquiry
Impacts of Native Vegetation and Biodiversity Regulations**

**Initial Response from Brisbane City Council
July 2003**

1. Role of Queensland Local Governments in Native Vegetation and Biodiversity Management

The Terms of Reference and Issues Paper for the Inquiry inadequately represent the role of local government in native vegetation and biodiversity management, regulation. Development control and enforcement.

Furthermore, the scope of the Inquiry emphasises consideration of the "efficiency and effectiveness" of regulatory regimes in "reducing the costs of resource degradation" without clarifying the criteria by which "efficiency and effectiveness" are assessed. The Issues Paper implies a purely econometric framework, rather than a balanced consideration for the achievement of complementary, "triple bottom line" goals, inclusive of environmental sustainability and social justice, that are central to the strategic vision of Brisbane City Council.

Brisbane City Council has already questioned the efficiency and effectiveness of its current suite of regulatory and policy instruments to protect biodiversity and commissioned a scoping study to identify where Council is most likely to find opportunities to enhance its capacities in protecting biodiversity (see Carden, M.F., 2002 & 2003 attached).

Brisbane City Council Role - Overview:

The ability for Queensland local governments to regulate vegetation clearing has long been available through the *Local Government Act 1936-1987*.

Brisbane City Council has been involved in the regulation of vegetation management since the early 1990s with the introduction, in 1990, of the "Bushland and Wetland Protection Strategy" and, in November 1991, of the "Vegetation Protection Ordinance" (VPO or "Chapter 22 - Vegetation Protection"). The making of this Local Law was made possible through the devolved powers available to BCC in the *City of Brisbane Act 1924-1989*.

Within the Queensland system of vegetation and biodiversity management, the statutory relationships between State and local government are explicit. This is welcome. Presently, the *Vegetation Management Act 1999* (VMA99) regulates the disturbance of native vegetation on freehold land, in conjunction with the development approval processes within the *Integrated Planning Act 1999* (IPA97), and also allows for local governments to address native vegetation management. The VMA99 s. 7, "Application of Act" states that "this Act does not prevent a local law from imposing requirements on the clearing of vegetation in its local government area" and "this Act does not prevent a local planning instrument under the Planning Act from imposing requirements on the clearing of vegetation in its local government area".

The VMA99 is used in conjunction with IPA97 and primarily applies to activities on single premises. It is not a suitable instrument for the comprehensive management of native vegetation and biodiversity at a whole-of-city scale, which includes public lands (such as parks, reserves and streets) and weeds. Therefore the local law is required to complement the VMA99 in order to address the full range of vegetation management issues in Brisbane City.

Brisbane City Council has taken the opportunity to revise the VPO system, consolidate 4 local laws, and develop the "Natural Assets Local Law (interim)" (NALLi) which was gazetted on 9th August 2002.

In 2000 the Brisbane City town planning scheme was revised under the IPA97. That Act requires the protection of "valuable features", which include ecological features and processes, to be an important objective of a planning scheme.

Measures introduced in the "City Plan 200W include the following: The "Green Space System" central to the Strategic Plan, including the creation of a "Conservation Areas", which was quickly populated by land in council ownership. City Plan 2000 has five different designated Green Space Areas: Conservation Area; Parkland Area; Sport and Recreation Area; Environmental

Protection Area; and, Rural Area. The Plan stipulates a management intent, desired environmental outcomes, appropriate levels of development assessment, and applicable assessment codes for these areas. Natural Assets Planning Scheme Policy that guides the assessment of development applications and informs land use planning for the future. This Policy establishes a "Natural Assets Register" of significant ecological features and processes and stipulates a management intent for these areas. Biodiversity Code that guides the assessment of development applications within certain areas identified in the Natural Assets Planning Scheme Policy, the "Greenspace System", and other designated areas, such as wetlands and waterway corridors. The "Brisbane City Council Ecological Assessment Guidelines 1998" provides public information to guide compliance with parts of this Code.

In 1998 Brisbane City Council released its "Biodiversity Strategy", which brought together the diverse instruments already in use. They were captured within four goals:

1. Conserving public and private natural areas: This goal addresses habitat loss and/or modification through town planning mechanisms, establishing a protected area network, and strengthening conservation on private lands. The "Bushland Preservation Levy" is used to provide the funds for purchasing land to add to the reserve network and then support its management. The "Voluntary Conservation Agreements" (VCA) and "Land for Wildlife" (LfW) programs are the Council's flagship voluntary conservation incentive programs.
2. Involving the community: BCC recognises that community involvement in conserving biodiversity is vital. Council collaborates with the community on fauna and flora habitat restoration projects under the "Habitat Brisbane" program. This has been supported through the "Environmental Grants Program".
3. Managing threatening processes: Regulatory control on clearing, namely VPO, has been an integral part of the Biodiversity Strategy. Towards the end of the 1990's, the focus began to shift towards managing threats other than habitat loss, including fire management and the management of weeds and feral animals.
4. Improving knowledge: The Biodiversity Research Framework provides the basis for determining research priorities and potential approaches to securing the missing knowledge.

Note: For a comprehensive history and explanation of Brisbane City Council's role in vegetation management, see the attached paper by Mr Alan Barton.

2. Overlap or Inconsistencies

It should be pointed out that there are other regulatory instruments in Queensland for the management and protection of native vegetation and biodiversity, with implications for partnerships between State and local government, not scoped in the Issues Paper.

Notably, the *Environmental Protection Act 1994* was used in the case of *Maroochy Shire Council v Barns* [2002] QPEC 025, to successfully apply a restraining order preventing the clearing of vegetation on freehold land under the grounds that it would breach the "general environmental duty" and "cause serious environmental harm" under that Act.

The *Land Protection (Pests and Stock Route Management) Act 2002* establishes (in Part 4) an obligation for a local government to prepare a pest management plan for declared pests in its area. The pest management plan must be consistent with State pest management strategies and requires a mandatory public review period during its preparation.

3. Community Consultation and Transparency

City Plan 2000

The public consultation processes for the Brisbane City Plan 2000 are undertaken in accordance with the *Integrated Planning Act 1997*.

NALLi

The process of community consultation for NALLi has been as follows:

- a public notice was made on the 10th August 2002;
- web site & on line search facilities were operational on the 10th Aug;
- BCC Contact Centre staff and Protected Vegetation Local Law team were operational on the 10th August 2002;
- mail out to all affected property owners and information was made available at Customer Service Centres and libraries between the 12th and 26th August 2002;

- a mail out to industry occurred on the 12th August 2002; and
- submissions closed on the 4th October 2002.
- review of all 164 submissions received
- amendment of draft NALLi for final gazettal in November 2002.

In terms of the numbers of land parcels affected by NALLi (potentially 62,407 parcels), the total of 164 public submissions represents less than 0.25% of affected landholders. The proportion of submissions received (i.e. 0.25%) was much lower than that received when VPOs were initially introduced in 1992 (30%). This indicates that the Brisbane community continues to strongly support the Council's vegetation management initiatives, provided there is appropriate recognition of maintenance and safety requirements and proper consideration of landholders' individual aspirations.

Furthermore, as part of the National Competition Policy reforms, a public interest test (PIT) conducted concurrently with public consultation to obtain business and industry feedback on any possibly anti-competitive provisions proposed in NALLi. 11 PIT submissions were received and addressed.

4. Economic Impacts

The Local Government Association of Queensland (LGAQ) and the Department of Natural Resources and Mines (DNRM) commissioned an assessment of the economic impact of State and local government expenditure on weed and pest animal management in Queensland (AEC Group, October 2002). The project uses a cost benefit analysis and, where possible, applies proxies for social and environmental impacts.

Key points from the report include that:

- On average, over the past 8 years, the annual expenditure on the control and management of declared weeds and pest animals has been \$10.2 million from the State government (DNRM) and \$12 million from local governments.
- In 2002-03, governments in Queensland were expected to spend \$24 million on weed and pest management, comprised of \$14 million from local government and \$ 10 million from DNRM;
- The \$24 million creates in the order of \$39 million gross State product, \$16 million in wages and salaries, and 764 jobs.
- For every dollar spent on weed and pest animal initiatives in Queensland, \$6.40 in benefits are delivered.
- For every dollar spent, the public benefit is \$3.70 compared with private benefits of \$2.70.
- The public benefit outweighs private benefit, therefore any increase in the level of funding increases the net benefit to the public.
- There are significant non-production benefits that flow from expenditure, which exceed the production benefits by approximately 1.5 times.