

Surveillance Program for Tropical Weeds under the *Biosecurity Act 2014*

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

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Contents

1	Biosecurity program	1
1.1	Program name.....	1
2	Requirement for a surveillance program	1
2.1	Purpose and rationale.....	1
2.2	Measures that are required to achieve the purpose.....	2
2.3	Powers of authorised officers.....	3
	Entry of place.....	3
	Power to carry out aerial control measures.....	3
	Obligations.....	3
	General Powers of authorised officers.....	4
2.4	Consultation.....	4
3	Authorisation of a Surveillance Program	5
3.1	Biosecurity matter.....	5
3.2	Purpose of the Program.....	5
3.3	Area affected by the Program.....	6
3.4	Powers of authorised officers.....	6
3.5	Obligations imposed on a person under the Program.....	7
3.6	Commencement and duration of the Program.....	7
3.7	Consultation with relevant parties.....	7
3.8	Notification of relevant parties of requirements.....	7

1 Biosecurity program

1.1 Program name

The surveillance 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 Surveillance Program for Tropical Weeds (the Program).

2 Requirement for a surveillance program

2.1 Purpose and rationale

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

- (a) monitoring compliance with the Act in relation to a particular matter to which the Act applies;
- (b) confirming the presence, or finding out the extent of the presence, in the State or the parts of the State to which the program applies, of the biosecurity matter to which the program relates;
- (c) confirming the absence, in the State or the parts of the State to which the program applies, of the biosecurity matter to which the program relates;
- (d) monitoring the effects of measures taken in response to a biosecurity risk;
- (e) monitoring compliance with requirements about prohibited matter or restricted matter;
- (f) monitoring levels of biosecurity matter or levels of biosecurity matter in a carrier.

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

- to confirm the presence or find out the extent or level of presence of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava*; or
- to confirm the absence of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava*; or
- to monitor the effects of measures taken to eradicate or remove *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava* from the place.

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.

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 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 program⁴ include but are not limited to:

- 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*.

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 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 activities required to implement the surveillance and monitoring components of the national program, in relation to areas within Queensland where tropical weed species pose a significant biosecurity risk.

Additionally, entry is required to check compliance with restriction category requirements under the Act to minimise the risk of human-assisted spread of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava* to other parts of Queensland.

2.2 Measures that are required to achieve the purpose

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

- 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*. This surveillance will mainly be conducted by entry of ground teams onto a place to conduct visual inspections, however, aerial survey by visual or photographic inspection using manned helicopters or Unmanned Aerial Vehicles (UAVs) may also be utilised.
- 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. Exhaustion of the seed bank at a place may take many years.

⁴ The current National Response Plan 2015-2018 was endorsed by National Management Group in December 2015

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 program⁵. 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 occupier⁶ 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 if⁷—

- (a) The authorised officer is unable to locate an occupier after making a reasonable attempt to do so;
or
- (b) 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 without the permission of the occupier. An authorised officer under the TWSP 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.

Power to carry out aerial control measures

The power to carry out aerial surveillance is authorised under a biosecurity program under the Act⁸. This means that an authorised officer may carry out, or direct another person to carry out, aerial surveillance for *Miconia calvescens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava* in relation to a place to which the Program relates.

This surveillance may be undertaken as visual observation with or without photographic or electronic recording by manned helicopter or un-manned aerial vehicle (UAV) flights.

Obligations

A person within the area of the Program is obliged to allow an authorised officer operating under the Program to enter a place to undertake monitoring or surveillance activities for *Miconia calvescens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava*.

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

⁵ See section 261 (Power to enter a place under biosecurity program) of the Act.

⁶ 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.

⁷ See section 270 (Entry of place under sections 261 and 262) of the Act.

⁸ See section 294 (Power to carry out aerial control measures under the biosecurity program) of the Act. Section 294(6) of the Act 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.

- 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 monitoring activities; or
- Control (mow or treat with a herbicide) other weeds which may be obstructing an authorised officer undertaking the surveillance activities as required to determine the presence or absence or monitor the effects of measures *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* or *Limnocharis flava*.

General Powers of authorised officers

Nothing in the 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 Surveillance 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 Surveillance Program for *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava* (the Program) in Queensland on the basis that:

- I am satisfied that the tropical weed species *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava* pose a significant biosecurity risk to biosecurity considerations in Queensland; and
- I am satisfied that surveillance activities are required to determine the presence or absence of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava* in the State of Queensland; and
- I am satisfied that checking compliance with the Act and enforcement are required for the restriction category requirements that apply to *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava* throughout the State of Queensland; and
- I am satisfied that activities are required to monitor the effects of the measures taken in response to the biosecurity risk of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava*.

Dr Elizabeth Woods
Director-General
Department of Agriculture and Fisheries

Authorised on 03 / 06 / 2016

3.1 Biosecurity matter

The biosecurity matter to which the Program relates are the restricted matter tropical weed species - *Miconia calvenscens*, *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 surveillance activities to confirm the presence, the extent of presence and level of presence of *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava*; and
- undertake compliance activities for the restriction category requirements for the restricted matter *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava*.
- undertake activities to monitor the effects of measures taken in response to *Miconia calvenscens*, *Miconia nervosa*, *Miconia racemosa*, *Mikania micrantha* and *Limnocharis flava*.

3.3 Area affected by the Program

The Program will apply to the whole State of Queensland.

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 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 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 officers may take under the Program
Search any part of the place	<p>Searching a place to check for the presence or absence of <i>Miconia</i> species, <i>Mikania micrantha</i> or <i>Limnocharis flava</i>.</p> <p>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>.</p> <p>Produce a written and/or electronic note(s) to support Program activities.</p> <p>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.</p> <p>Give a biosecurity order to a person that fails to discharge a general biosecurity obligation.</p>
Inspect, examine or film any part of the place or anything at the place	
Take for examination a thing, or a sample of or from a thing, at the place	
Place an identifying mark in or on anything at the place	
Place a sign or notice at the place	
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	
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 this division	
Destroy biosecurity matter or a carrier if 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	

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

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 See section 255 (3) (Powers of particular authorised officers limited) of the Act.

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

<p>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</p>	
<p>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.</p>	

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 power¹⁴.

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. Under the Program these measures include surveillance by visual, photographic or electronic observations of a place. This surveillance may be undertaken by manned helicopter or un-manned aerial vehicle (UAV).

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 monitoring activities; or
- Control (mow or treat with a herbicide) other weeds which may be obstructing an authorised officer undertaking the surveillance activities as required to determine the presence or absence or monitor the effects of measures *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 Act¹⁵, I have consulted, prior to the authorisation of the Programs, with local governments across the State of Queensland.

3.8 Notification of relevant parties of requirements

As required by the Act¹⁶, 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
- placing a notification on the department's website; and
- placing a public notice in newspapers circulating in the Program area, as appropriate.

¹⁴ See section 297 (Power to require reasonable help) of the Act.

¹⁵ See section 239 (Consultation about proposed biosecurity program) of the Act.

¹⁶ See section 240 (Notice of proposed biosecurity program) of the Act.

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.