From: DEVERY Michael [Michael.Devery@ehp.qld.gov.au]
Sent: Wednesday, 2 December 2015 2:02 PM
To: McLean, Drew (Drew.McLean@environment.gov.au)
Subject: FW: High value agriculture related compliance activities

Hi Drew
FYI re. Kingvale.

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
Work: 33305257
Mob: sch4p4(6) Perso

From: HORROCKS Paul
Sent: Wednesday, 2 December 2015 1:55 PM
To: DEVERY Michael
Cc: ALLAN Kev; FIELD Gregory; COBURN Vicki
Subject: RE: High value agriculture related compliance activities

Hi Mike,
I am not aware of whether clearing has been undertaken on Kingvale or not – however given that the permit was issued during the middle of last year, I would be very surprised if it wasn't completed before the last wet season.

Contact for South Region is Greg Field on (07) 4654 4207 & contact for Central Region is Vicki Coburn on (07) 4999 6848.

Hope this helps. Give me a call if you need further info.

Regards

PH

Paul Horrocks
Manager | Natural Resource Assessment | Natural Resources | North Region
Department of Natural Resources and Mines
PH 07 4447 9162 **Mob** sch4p4(6) Per
Level 9 Verde Tower, 445 Flinders St
PO Box 5318, Townsville QLD 4810
Email: paul.horrocks@dnrm.qld.gov.au

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cid:image003.png@01D12083.73D7EB70

From: DEVERY Michael
Sent: Wednesday, 2 December 2015 1:47 PM
To: HORROCKS Paul
Cc: ALLAN Kev
Subject: RE: High value agriculture related compliance activities

Thanks Paul.

To your knowledge has clearing already been going on at Kingvale for high value agricultural purposes

Also, can you suggest a contact for Central and South?

Cheers

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
Work: 33305257
Mob: sch4p4(6) Perso

From: HORROCKS Paul
Sent: Wednesday, 2 December 2015 1:05 PM
To: DEVERY Michael
Cc: ALLAN Kev
Subject: RE: High value agriculture related compliance activities

Mike,
No formal investigations at present outside of Strathmore Station for HVA for North Region.

We recently completed a minor compliance action for s.73 where an audit showed that they had gone outside their permit areas by a small amount.

I had also recently asked my staff to check imagery for Kingvale just to ensure that they had been clearing within the permit areas. If we find any issues, I will let you know.

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Not sure about South & Central Regions.

PH

Paul Horrocks
Manager | Natural Resource Assessment | Natural Resources | North Region
Department of Natural Resources and Mines
PH 07 4447 9162 **Mob** sch4p4(6) Pers
Level 9 Verde Tower, 445 Flinders St
PO Box 5318, Townsville QLD 4810
Email: paul.horrocks@dnrm.qld.gov.au

cid:image003.png@01D12083.73D7EB70

From: DEVERY Michael
Sent: Wednesday, 2 December 2015 12:24 PM
To: HORROCKS Paul
Subject: High value agriculture related compliance activities

Hi Paul
As you are aware EHP and the Commonwealth Department of Environment inspected 'Strathmore' last week in respect to matters under the *Nature Conservation Act 1992* and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* respectively. Both agencies are now considering other properties which are subject to high value agriculture purpose related permits, including 'Kingvale'.

To ensure that there is an informed, and if appropriate, coordinated approach to any compliance activities that may be being undertaken by the Queensland Government (and the Commonwealth) are you able to advise whether your department has any investigations on foot or proposed in relation to this category of permit in Queensland. I am of course aware of the stop work order related proceeding in respect to 'Strathmore'.

Regards

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
Work: 33305257
Mob: sch4p4(6) Perso

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From: DEVERY Michael [Michael.Devery@ehp.qld.gov.au]
Sent: Monday, 7 December 2015 3:55 PM
To: Drew McLean; manny.hernandez@environment.gov.au
Subject: Kingvale

Hi Drew and Manney
Got out a the plane a short time ago.

No new clearing of any signify cd observed on the property, though we will look closer at pre-existing imagery in respect to some apparently older works.

Saw two large dozers parked near the homestead.

Also Mr Harris' lawyer wrote to me today disputing the law around aspects of the letter that was sent to his client last Friday in respect to the Nature Conservation Act.

cheers

mike

Sent from my iPhone

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From: SPRAGG James [James.Spragg@ehp.qld.gov.au]
Sent: Tuesday, 8 December 2015 2:32 PM
To: McLean, Drew; manny.hernandez@environment.gov.au
CC: DEVERY Michael
Subject: FW: King Vale Station 07/12/15
Attachments: Clearing of Road + White tank (diesel tank) 071215.jpg; Clearing of Road + White tank (diesel tank)_2 071215.jpg; Google Earth image (clearing of road + diesel tank) 071215.jpg; KING VALE 071215.kmz; Photo of King Vale Outstation (Bulldozers) 071215.jpg; Photo of King Vale Outstation 071215.jpg; Photo of King Vale Outstation_2 071215.jpg

Hi Drew,

Please find attached photos that were taken during an aerial surveillance of Kingvale Station yesterday 7 Dec 2015. Three off the attached photos depict the Kingvale Outstation and two large (possibly D11) bulldozers.

Additionally as Mike mentioned in his email yesterday there appeared to be some clearing/cultivation within one of the clearing foot prints directly south of the outstation. It is not clear when this clearing/cultivation took place, however it is depicted in Google Globe imagery.

I have also included some photo of clearing that has occurred along, what appears to be an old access track that runs parallel to the largest clearing foot print on the northern end of the property. A turn-around area clearing in this location appears to possibly be outside the Kingvale property boundaries, there appears to be a diesel tank also placed near this turn around. A Google Earth KMZ file for this information has been included for your reference.

I am happy to help with any other information. The attached images have been reduced in size, however all originals will be stored securely with EHP and can be requested if required.

Regards,

James Spragg
Senior Conservation Officer
Nature Conservation Compliance
Threatened Species Unit | Brisbane
Department of Environment and Heritage Protection
P 07 3330 5258 **M** sch4p4(6) Pers
Level 5, 400 George Street, Brisbane
GPO Box 2425, Brisbane, 4001, Australia

From: SPRAGG James
Sent: Tuesday, 8 December 2015 10:41 AM
To: DEVERY Michael
Subject: King Vale Station 07/12/15

Hi Mike,

Following the aerial surveillance of King Vale Yesterday (07/Dec/2015) I have downloaded the photos and video to the secure compliance drive. To allow emailing of these photos I have reduced the size and in the instance of the Bulldozers located at the outstation I have cropped the image, the originals will be retained. Observed yesterday were two Bulldozers located at the King Vale outstation. One located in the open, whilst the other parked beside other machinery near (grader and front end

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loader).

I have also included a two photographs of the clearing (that has occurred along what appears to be a road and is associated with what appears to be a white diesel tank and cattle loading ramp. There is evidence of trees being pushed to each side of this clearing in the photographs. However based on land boundaries it appears that some of this clearing (including the location of the diesel tank) are likely to be on the neighbouring property, however the road clearing then extends parallel to the proposed clearing foot print for the permit. I have included a Google Earth image and KMZ file for the location of this clearing that was observed.

Please let me know if you require anything else to provide to Drew and Manney today.

Regards,

James Spragg
Senior Conservation Officer
Nature Conservation Compliance
Threatened Species Unit | Brisbane
Department of Environment and Heritage Protection
P 07 3330 5258 **M** sch4p4(6) Per
Level 5, 400 George Street, Brisbane
GPO Box 2425, Brisbane, 4001, Australia

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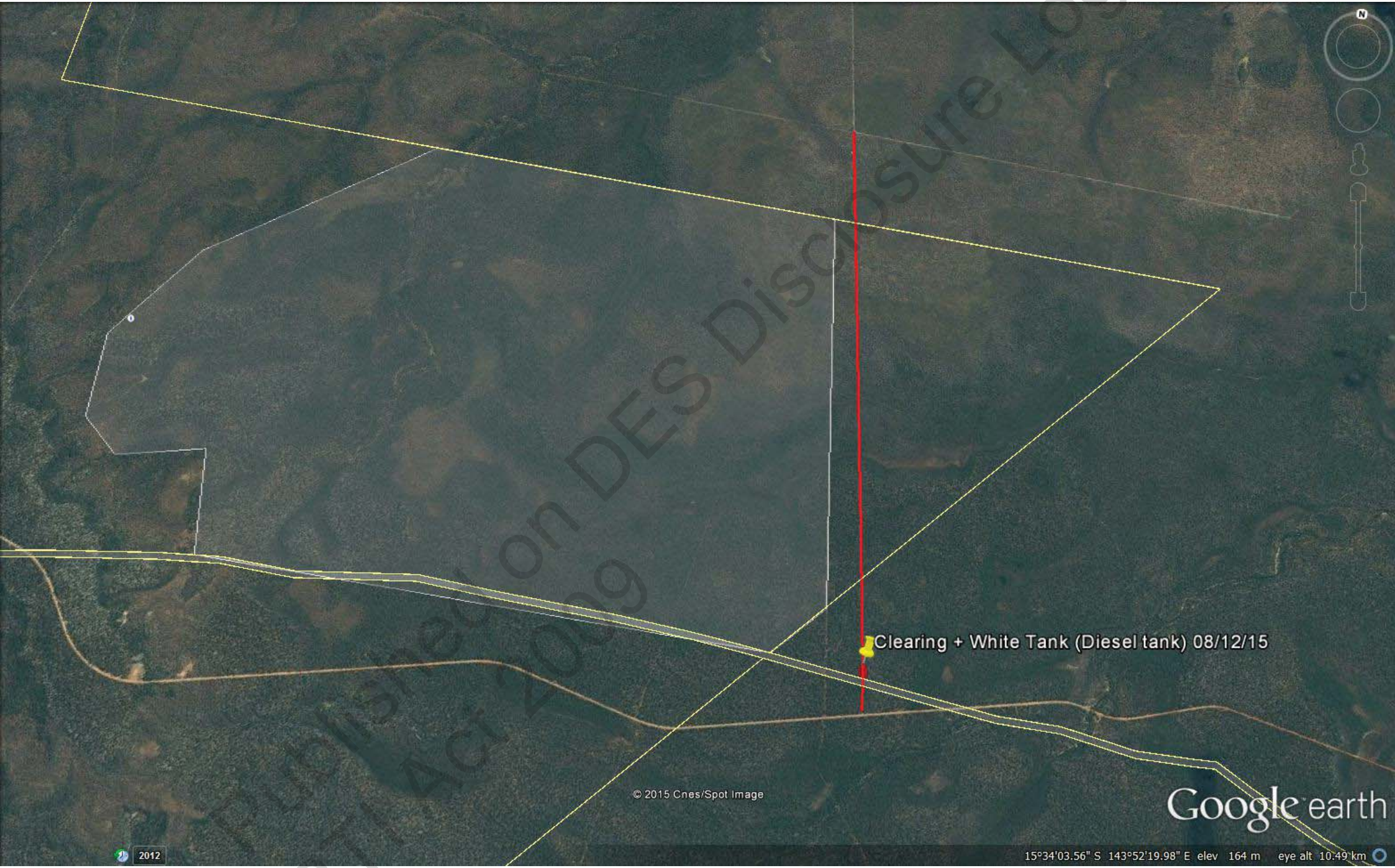

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Relea

From: WILLIAMS Rebecca [Rebecca.Williams@ehp.qld.gov.au]
Sent: Wednesday, 9 December 2015 10:45 AM
To: DEVERY Michael
CC: TS Admin
Subject: RE: Kingvale

agreed
please take this as travel approval as well
regards
Beck

Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
---
07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

-----Original Message-----
From: DEVERY Michael
Sent: Tuesday, 8 December 2015 9:25 PM
To: WILLIAMS Rebecca
Subject: Kingvale

Beck
DoE Assistant Director Compliance Drew McLean advised this evening that he plans to enter Kingvale on a monitoring warrant next Monday with both a soil expert and a bat expert to investigate whether EPBC values would be likely to be impacted by the proposed tree clearing. If so, DoE will be looking at the possibility of pursuing injunctive relief.

Drew has again extended the opportunity for EHP to assist with the inspection.

I am unable to get away early next week, but with your approval I intend to send James along, with support from a fauna expert (preferably John Winter if he's available) to spotlight for the presence of arboreal mammals using tree hollows in the permit area.

This would support the Commonwealth's inspection in respect to seeking to confirm the presence of any threatened species and generally reveal whether protected animals are using the site.

I'll seek your views on this tomorrow.

Regards

mike

Sent from my iPhone

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Guideline

Wildlife management

Developing a species management program

This document has been developed by the Department of Environment and Heritage Protection (EHP) and describes the minimum requirements for the development of a species management program to meet the requirements of an 'approved species management program' under the Nature Conservation (Wildlife Management) Regulation 2006.

Introduction

In Queensland, community concern for the conservation of native animals has led to the adoption of legislation designed to protect native wildlife including its breeding places. Accordingly where a planned activity would impact on the breeding place of a native animal a planning process is required to avert or mitigate the impact.

The Nature Conservation (Wildlife Management) Regulation 2006 prohibits tampering with a native animal breeding place except under specific conditions which include the activity being part of an approved species management program (SMP).

The purpose of an SMP is to:

- Assess the threats to native animal breeding places resulting from a planned activity.
- Incorporate management actions that will avoid or minimise both the immediate and the long term impact of the activity on the species population and its habitat.
- Set monitoring and reporting requirements that demonstrate the management actions in the SMP are effectively implemented and produce the intended results.

This document provides guidance on how to develop an SMP and the minimum information requirements that it should contain.

General information

For any activity that will impact on breeding places of extinct in the wild, endangered, vulnerable, near threatened or least concern animals, a Species Management Program (SMP) for that species will be required. Animal breeding places include obvious structures such as bird nests and tree hollows, as well as more cryptic places such as frog or reptile habitat where breeding takes place.

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If a group of animals will be affected in a similar manner and mitigation measures will be the same for all the species in the group i.e. frogs or skinks, then a single SMP can be written for the group.

Where activities involving the tampering with animal breeding places are consistently undertaken by an entity as part of its business, a longer term SMP may be approved, to allow tampering at multiple sites over time.

Special considerations apply to the disturbance of koala habitat in south east Queensland. See the South East Queensland Koala Conservation State Planning Regulatory Provision, the State Planning Policy 2/10: Koala Conservation in South East Queensland and the Nature Conservation (Koala) Conservation Plan 2006. Contact EHP for further advice.

Where activities are expected, after appropriate site assessment, to only impact on the breeding places of least concern animals (with the exception of special least concern and colonial breeding animals), EHP may elect to approve a standard SMP for the activity. Standard, or generic, SMPs may be developed by EHP and offered to clients where EHP considers it appropriate. Clients may elect to accept the standard SMP, or develop their own for approval.

Definitions:

approved species management program - a program about managing the population and habitat of the species of animal that is approved by the chief executive.

animal means any member of the animal kingdom (other than human), (whether alive or dead), and includes—

(a) any—

(i) amphibian; or

(ii) bird; or

(iii) coral; or

(iv) fish; or

(v) invertebrate; or

(vi) mammal; or

(vii) reptile; and

(b) the whole or any part of—

(i) the progeny, larvae, pupae, eggs or genetic or reproductive material of an animal; and

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(ii) the carcass or another part of an animal.

animal breeding place - a bower, burrow, cave, hollow, nest or other thing that is commonly used by the animal to incubate or rear the animal's offspring.

protected animal means an animal that is prescribed under this Act as threatened, rare, near threatened or least concern wildlife, but does not include a processed product that—

(a) is made or derived from a protected animal; and

(b) is declared under a regulation or conservation plan for the protected animal to be a processed product that is not included in this definition.

special least concern animal means the following—

(a) the koala (*Phascolarctos cinereus*);

(b) the echidna (*Tachyglossus aculeatus*);

(c) the platypus (*Ornithorhynchus anatinus*);

(d) a least concern bird to which any of the following apply—

(i) the agreement called 'Agreement Between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment' and signed at Tokyo on 6 February 1974;

(ii) the agreement called 'Agreement Between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment' and signed at Canberra on 20 October 1986;

(iii) the convention called 'Convention on the Conservation of Migratory Species of Wild Animals' and signed at Bonn on 23 June 1979.2

suitably qualified and experienced means—

A person with formal qualifications and/or experience in fauna identification and life ecology and environmental management. A person is considered to be suitably qualified and experienced if they meet one or more of the following criteria:

- An ecological consultant with experience in conducting fauna surveys;
- A person who possesses a degree in natural science or similar with experience in conducting fauna surveys;
- A person who is a spotter-catcher under a rehabilitation permit issued under the *Nature Conservation Act 1992*;

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- A person who can demonstrate significant experience in the removal of trees and spotting for wildlife to ensure they are not harmed during vegetation clearing.

tamper with an animal breeding place means damage, destroy, mark, move or dig up the breeding place.

In order to demonstrate that tampering could not have been reasonably avoided the following best practice management must be followed and documented.

SMP requirements

Refer table below.

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Item	*Information required*	*Notes*

Scope

1. Applicant	Provide applicant's legal name, ACN/ABN if applicable, registered address, contact details.	
2. Organisational Summary	Provide a summary of the applicant organisation, including its objectives and scope of activities.	
3. Activity	Outline the activities that will occur for which this approval is required, including, if applicable, the authority by which the activities are undertaken.	Authorities may include licences, permits etc. granted under other regulations.
4. Applicable species	Describe the species or classes of wildlife to which the program applies.	Particular considerations apply to koalas in SEQ. Early consultation with EHP is recommended for these species.

Terms

1. Term of Approval	State for what period you wish the SMP to remain valid.	The term must be relevant to the activity being undertaken and allow for a periodic review of the program. Maximum term is 3 years.
2. Approved parties	List the parties that are to be approved to operate under the program.	e.g. contractors, agents, subsidiaries

Impacts

1. Impacts	Describe how the activity may impact on animal breeding places, including how particular species of concern may be	• temporary disturbance

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Item	*Information required*	*Notes*
	impacted.	• destruction of breeding structure • destruction of breeding habitat • impacts on local or regional population of the species • impacts on the State wide population of the species
2. Assessment	Outline the methods of assessment and analysis and research undertaken to evaluate the potential impacts of activities on animal breeding places.	• EIS • WildNet records • museum records • essential habitat mapping • pre-clearing site survey

Management

1. Management Actions	Outline the proposed actions to be taken to manage the impacts of activities on animal breeding places.	• avoidance (through design phase) • avoidance (during clearing) • avoidance (adaptive management) • retention of 'habitat' trees • consideration of seasonal factors • sequential clearing • rehabilitation of habitat • replacement/translocation of breeding structure • include in off-setting plan (where otherwise required) • dealing with injured wildlife, dependent young, eggs

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Item	*Information required*	*Notes*
		• spotter-catchers • staff training/procedures • measures to avoid impacts on other wildlife
2. Responsibilities	Identify who in the organisation is responsible for ensuring that each action is carried out in accordance with the program.	
3. Qualified persons	Identify areas of the program that will require specialist or qualified people to undertake activities.	• experienced fauna surveyors • licensed spotter-catchers • licensed wildlife carers • veterinarian
4. Contingency planning	Outline a process to be followed in the event of unexpected impacts on other protected wildlife.	

Monitoring

1. Establishing pre-clearing condition	Detail how baseline data was/will be collected to allow assessment of success of SMP.	
2. Post-clearing monitoring	Detail proposed monitoring to evaluate success of management strategies. Specify the period over which monitoring is to occur.	

Reporting

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Item	*Information required*	*Notes*
1. Reporting	Outline the proposed reporting regime that will allow EHP to evaluate impacts on species and success or otherwise of management strategies.	

Miscellaneous

1. Legislative framework	Detail any legislation relevant to the operation of the SMP.	• State and Commonwealth nature conservation legislation • legislation relating to the operation of the applicant's business relevant to the SMP
2. Definitions/Glossary	Descriptions of meanings within the document	
3. Contact details	Provide contact details, including at a local/regional level if applicable. EHP will provide relevant contact details for EHP officers.	
4. References	List references used in development of SMP, including consultation with experts.	

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From: DEVERY Michael [Michael.Devery@ehp.qld.gov.au]
Sent: Friday, 11 December 2015 11:12 AM
To: WILLIAMS Rebecca
CC: PRIOR Katrina; TS Admin; SPRAGG James
Subject: Kingvale inspection

Hi Beck
I've settled the arrangements for the Kingvale inspection this morning.

James Spragg will fly to Cairns this Sunday morning and travel to Laura with QPWS zoologist Russell Best in a QPWS four wheel drive vehicle.

James and Russell will meet up with the Federal team at Laura and they will all access the property on the following Monday under authority of the Federal warrant.

As the warrant holder, DoE has undertaken a risk assessment and have determined that a police presence is not required (though they will be advising Laura Police of the operation and their movements).

James will prepare a remote travel form for the trip today.

Regards

mike

Sent from my iPhone

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From: WILLIAMS Rebecca [Rebecca.Williams@ehp.qld.gov.au]
Sent: Tuesday, 15 December 2015 3:21 PM
To: CLARE Geoff; DEVERY Michael
Subject: RE: Actions relating to Kingvale

Ok
Mike could you have an update for then please
regards
Beck

Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
☎ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

From: CLARE Geoff
Sent: Tuesday, 15 December 2015 12:22 PM
To: WILLIAMS Rebecca
Subject: RE: Actions relating to Kingvale

Beck,

I think we wait until the result of the trapping is known and send it up to Jim then (hopefully with a better feel for whether the commonwealth have established grounds to injuct since we can't get to the P&E court in any case).

If we aim to do this tomorrow morning Jim can get across it before the Min/DG meeting on Thursday.

Geoff

From: WILLIAMS Rebecca
Sent: Tuesday, 15 December 2015 11:12 AM
To: CLARE Geoff
Cc: DEVERY Michael; CSS; Corro EHP CSS NCS
Subject: Actions relating to Kingvale

Geoff
this is Mike's paper that I have just updated with information from the last couple of days
regards
Beck

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From: WILLIAMS Rebecca [Rebecca.Williams@ehp.qld.gov.au]
Sent: Tuesday, 15 December 2015 4:30 PM
To: CSS
CC: Corro EHP CSS NCS (EHPCSSNCS.Corro@ehp.qld.gov.au)
Subject: FW: Actions relating to Kingvale

Just FYI

Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
☎ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

From: DEVERY Michael
Sent: Tuesday, 15 December 2015 4:03 PM
To: WILLIAMS Rebecca; CLARE Geoff
Subject: RE: Actions relating to Kingvale

That won't be a problem Beck. I haven't heard back from James since they were going out to check the traps this morning, but he'll phone me later in the day.

I spoke to Drew McLean (lead on-site Commonwealth officer) a bit earlier today and he advised that while a number of microbats were observed last night, no EPBC listed species have as yet been identified. However Drew indicated that they had significant concerns about potential soil movement from the property if the permit areas to the north were cleared where the river system runs in a north-easterly direction.

Regards

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
Work: 33305257
Mob: sch4p4(6) Perso

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☎ 07 3330 5512 http://www.ehp.qld.gov.au
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Subject: FW: Actions relating to Kingvale

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Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
☎ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

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Regards

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
Work: 33305257
Mob: sch4p4(6) Perso

From: WILLIAMS Rebecca
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To: CLARE Geoff; DEVERY Michael

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Subject: RE: Actions relating to Kingvale

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Rebecca Williams
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Nature Conservation Services
Department of Environment and Heritage Protection
☎ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

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Sent: Tuesday, 15 December 2015 12:22 PM
To: WILLIAMS Rebecca
Subject: RE: Actions relating to Kingvale

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To: CLARE Geoff
Cc: DEVERY Michael; CSS; Corro EHP CSS NCS
Subject: Actions relating to Kingvale

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From: WILLIAMS Rebecca [Rebecca.Williams@ehp.qld.gov.au]
Sent: Wednesday, 16 December 2015 11:21 AM
To: CLARE Geoff
CC: DEVERY Michael; Spragg James (James.Spragg@ehp.qld.gov.au)
Subject: FW: kingvaleinjunct.doc.docx
Attachments: kingvaleinjunct.doc.docx

as requested
regards
Beck

Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
☎ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

From: DEVERY Michael
Sent: Wednesday, 16 December 2015 11:19 AM
To: WILLIAMS Rebecca
Cc: SPRAGG James
Subject: kingvaleinjunct.doc.docx

Beck
Updated brief on Kingvale as requested.

Regards

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
Work: 33305257
Mob: sch4p4(6) Perso

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Specific actions for going forward with Kingvale Station

Background

- On Friday 4 December 2015, the Department of Environment and Heritage Protection (EHP) wrote to Mr Scott Harris, leaseholder of Kingvale Station to advise him of the need to comply with the *Nature Conservation Act 1992* (NCA), regardless of the tree clearing related permits he holds under the *Sustainable Planning Act 2009* and *Vegetation Management Act 1999*.
- On Monday 7 December 2015, the Department of Environment and Heritage Protection carried out an aerial surveillance of Kingvale Station.
- While no obvious fresh clearing was observed on the property, two large bulldozers (possibly D 11s) were seen to be parked near the homestead (refer Attached photograph).
- On Wednesday 9 December 2015, the Commonwealth Department of Environment (DoE) also wrote to Mr Harris advising that:
    - DoE are of a view that the proposed clearing should be referred to the Commonwealth under the Commonwealth *Environment Protection and Biodiversity Protection Act 1999* (EPBC),
    - the Commonwealth Minister for the Environment may decide to call the matter in under the EPBC,
    - significant penalties and injunctive provisions apply under the EPBC, and
    - Commonwealth officers with be entering the property from Monday 14 December 2015 under authority of a Commonwealth monitoring warrant to undertake an inspection with suitably qualified experts. The warrant will authorise access for up to 6 months.
    - DoE are particularly focussed in soil movement issues and on a number of Endangered or threatened birds and mammals.
- Prior to conducting an inspection of Kingvale, the following response options were identified as being potentially available:
    - If DoE determined that offences under the EPBC may occur as a result of the clearing, they may seek injunctive relief from the Federal Court in the form of a stop work order.
    - However if no possible EPBC offences are identified, EHP would consider whether the proposed clearing would be likely to tamper with protected animal breeding places or result in the direct 'take' (killing or harming) of protected animal species for the purposes of the NCA.
    - If evidence is found of likely offences involving the take of protected animals under the NCA, EHP could consider applying to the Planning and Environment Court for an enforcement order under s. 173D of that Act (however the Planning and Environment Court subsequently advised that it is not taking new matters until it sits again in January 2016).

Site Inspection

- EHP officers assisted DoE with an inspection of Kingvale under authority of a monitoring warrant obtained under the EPBC on 14 and 15 December 2015.
- DoE conducted the inspection with a DoE investigator and two consultants (a hydrographer and a bat expert). EHP provided a wildlife officer and a Queensland Parks and Wildlife Service ecologist.

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- The inspection which commenced on 14 December 2015, focused on the approved clearing footprint on the northern section of Kingvale where it was considered the highest potential existed for matters of National or State significance may exist.
- As at 10am on 15 December 2015, no threatened or near threatened (EVNT) species under the either the EPBC or NCA had been observed within or immediately adjacent to the approved clearing foot print on the northern section of the property.
- However in the course the inspection on 14 December 2015, EHP officers observed one sugar glider in a tree immediately adjacent to the approved permit area and found scats of brush-tail possums within the approved permit area.
- Additionally a freshwater crocodile was observed in the watercourse adjacent to the approved permit area as well as a large number of least concern bird species, a number of ground dwelling least concern reptiles and approximately seven species of least concern amphibians (all amphibians where recorded within the buffered area of the watercourse).
- Twenty Elliot and cage traps which were set by EHP within and immediately adjacent to the approved permit area on 14 December 2015 did not capture any animals overnight.
- Several nests of least concern bird species were observed on the approved permit area, however these did not appear to be in use.
- EHP officers were advised by the bat expert engaged by DoE that on 14 December 2015, four least concern microbat species were recorded within and immediately adjacent to the northern clearing foot print. The consultant advised that he planned to continue to conduct surveys at the site over the period 15, 16 and17 December 2015.

Interim findings in respect to the NCA

- It is recommended that based on the site inspection, EHP does not have sufficient evidence to ground an application for enforcement order to prevent the clearing from proceeding if it wished to pursue this course of action.
- This is premised on the observation of the minimal presence of protected animals (including confirmed animal breeding places) which could potentially be harmed or killed by clearing activities within the approved permit area. In this regard it was not able to determine the roosting locations for the observed microbats.

Interim advice on EPBC findings

- On 15 December 2015, DoE's investigator for the site visit to Kingvale advised that the consultant hydrographer has indicated on early view that there likely to be run off issues into the adjacent watercourses at the northern end of the property should clearing proceed.
- In this regard, based on the shape files for the approved clearing areas at the northern end of the property, the site inspection revealed that there is minimal vegetation within significant sections of the defined watercourse buffer areas. Additionally in some instances the clearing footprint would extend into what were believed to be areas that would be subject to long term inundation during the wet season.
- The watercourses in question form part of the headwaters of the Hann River which flows in a north-easterly direction through Lakefield National Park and into Princess Charlotte Bay adjacent to the relevant section of the Great Barrier Reef.
- DoE advises that this may constitute grounds for injunctive action or Commonwealth Ministerial call in process if clearing was to proceed. However further investigation and consideration was to occur in this regard.

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- If DoE's further surveys confirm the presence of EPBC listed microbats, this may also form a basis for DoE to consider an injunctive action or a Commonwealth Ministerial call in process.

Other possible influences

- Periods of heavy rainfall occurred on Kingvale in the course of the site inspection. Should this constitute the commencement of the wet season, it is likely to restrict the leaseholder's ability to undertake clearing activities once soil saturation occurs.
- However a D11 bulldozer was observed being transported along the Peninsula Development Road north of Laura on the morning of 15 December 2015 and the prime mover and bulldozer appeared similar to those observed the fortnight previously on Strathmore Station.
- Should this equipment be observed to be on Kingvale in the course of the ongoing site visit, DoE advises that it may influence their decision-making regarding the nature and timing of their response.

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From: Peter Spencer [Peter.Spencer@ministerial.qld.gov.au]
Sent: Tuesday, 22 December 2015 7:47 AM
To: CLARE Geoff
CC: DEVERY Michael; WILLIAMS Rebecca
Subject: Re: kingvaleinjunct.doc.docx

Ok thanks for following up and the advice Geoff. This worries me a bit but for a discussion another time.

Cheers
Pete Spencer

Sent from mobile, please excuse typos and punctuation.

On 21 Dec 2015, at 2:57 PM, CLARE Geoff <Geoff.Clare@ehp.qld.gov.au> wrote:

> Sorry Peter. I did follow that up. There were no E&V protected plant species seen on the property. As you know there are no known prior recordings either. I have chased down the extrapolation approach you were asking about and have satisfied myself that it does not have a current legal basis. Indeed if we were to see a plant and then bring its location to the attention of the landholder, their obligation would still be just to that plant (eg to protect it and a buffer or to apply to clear it). It would not trigger a requirement for a broader survey.
>
> Geoff
>
> **From:** Peter Spencer [mailto:Peter.Spencer@ministerial.qld.gov.au]
> **Sent:** Monday, 21 December 2015 2:46 PM
> **To:** DLO EHP; CLARE Geoff
> **Subject:** Re: kingvaleinjunct.doc.docx
>
> Hi Geoff, after our discussion the other day, I was expecting some analysis/ explanation of how the protected plants framework interacts with this property.
>
> Cheers
> Pete Spencer
>
> *Sent from mobile, please excuse typos and punctuation.*
>
> On 21 Dec 2015, at 12:34 PM, DLO EHP <DLO.EHP@ehp.qld.gov.au> wrote:
>
> > Hi Pete,
> >
> > Forwarding for your attention.
> >
> > Thanks
> > Jodie
> >
> > <image002.png>**Jodie Mallouhi**
> > Senior Departmental Liaison Officer

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Office of the Minister for Environment and Heritage Protection and
Minister for National Parks and the Great Barrier Reef
Department of Environment and Heritage Protection

P 07 3330 6250
Level 13, 400 George Street, Brisbane QLD 4000
GPO Box 2454, Brisbane, QLD 4001

From: CLARE Geoff
Sent: Monday, 21 December 2015 11:22 AM
To: DLO EHP
Cc: ELLWOOD Dean; WILLIAMS Rebecca; DEVERY Michael
Subject: FW: kingvaleinjunct.doc.docx

Jodie,

The Minister requested notes on the vegetation clearing matter at Kingvale Station at the Min/DG meeting last week.

Could you please provide the attached to the relevant Advisor.

We are pending advice from the Commonwealth as to whether they will be seeking an injunction for clearing on any of the property.

Geoff

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<kingvaleinjunct.doc.docx>

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From: WILLIAMS Rebecca [Rebecca.Williams@ehp.qld.gov.au]
Sent: Wednesday, 23 December 2015 2:45 PM
To: TS Admin
Subject: RE: Laura - 151213-15 - JS - Inspection Kingvale station.xlsx

ok
regards
Beck

Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
☎ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

From: TS Admin
Sent: Wednesday, 23 December 2015 2:14 PM
To: WILLIAMS Rebecca
Subject: Laura - 151213-15 - JS - Inspection Kingvale station.xlsx

Hi Beck,

The attached is the TA claim for James Spragg for the inspection last week. I will print and bring around for signature.

Thanks
Jan W

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From: WILLIAMS Rebecca [Rebecca.Williams@ehp.qld.gov.au]
Sent: Wednesday, 23 December 2015 2:45 PM
To: TS Admin
Subject: RE: Laura - 151213-15 - JS - Inspection Kingvale station.xlsx

ok
regards
Beck

Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
☎ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

From: TS Admin
Sent: Wednesday, 23 December 2015 2:14 PM
To: WILLIAMS Rebecca
Subject: Laura - 151213-15 - JS - Inspection Kingvale station.xlsx

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Thanks
Jan W

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From: WILLIAMS Rebecca [Rebecca.Williams@ehp.qld.gov.au]
Sent: Tuesday, 5 January 2016 2:44 PM
To: DEVERY Michael
Subject: Kingvale

Mike
have we heard from the Commonwealth regarding any recommendation they have for C'wealth action on this property?
regards
Beck

Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
☏ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

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From: WILLIAMS Rebecca [Rebecca.Williams@ehp.qld.gov.au]
Sent: Tuesday, 5 January 2016 4:08 PM
To: DEVERY Michael; CLARE Geoff
Subject: RE: Kingvale

thanks just curious.

Geoff: just FYI in case you are asked
regards

Beck

Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
☏ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

From: DEVERY Michael
Sent: Tuesday, 5 January 2016 3:47 PM
To: WILLIAMS Rebecca
Subject: Re: Kingvale

Yes Beck
As at 24 December DoE were positioned, subject to their legal units endorsement, to go with an injunction if work commenced if their Minister wished to take this action.

However it's been raining right through up in the Laura area since then until today and Laura police advised me that it would be unlikely that anyone could operate any machinery (spoke with them today).

Can't raise my Commonwealth counterpart and am assuming that he hasn't returned to work yet.

Regards

mike

Sent from my iPhone

On 5 Jan 2016, at 2:44 pm, WILLIAMS Rebecca <Rebecca.Williams@ehp.qld.gov.au> wrote:

> Mike
> have we heard from the Commonwealth regarding any recommendation they have for C'wealth action on this property?
> regards
> Beck
>
> <image002.png>Rebecca Williams

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A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection

☎ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

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From: PRICE Hugh [Hugh.Price@ehp.qld.gov.au]
Sent: Tuesday, 16 February 2016 4:29 PM
To: DEVERY Michael
CC: BATES Andrew
Subject: RE: IS 2015-019 Kingvale Clearing

Thanks Mike.

The matter will be closed.

Regards,

Hugh.

Hugh Price
Senior Investigator
Investigations | Petroleum, Gas and Compliance
Department of Environment and Heritage Protection
P 07 42225469 sch4p4(6) Pe
Level 3/5B Sheridan Stret /Cairns
PO Box 7230, Cairns QLD 4870

From: DEVERY Michael
Sent: Monday, 15 February 2016 5:11 PM
To: PRICE Hugh
Cc: BATES Andrew
Subject: RE: IS 2015-019 Kingvale Clearing

Hi again Hugh
I can confirm that following a joint inspection with the Commonwealth Department of Environment (DoE), EHP's Nature Conservation Services Branch was not able to detect any offences that had already occurred to that date, or based on a wildlife survey that was conducted at the time, that there were grounds to seek an enforcement order if clearing was to commence.

However it is understood that DoE has identified potential impacts in respect to the *Environment Protection and Biodiversity Conservation Act 1999* on part of the property should clearing commence on that part and are prepared to initiate an injunctive action should their Minister seek to do so.

Accordingly it would be appreciated if you could close this request. Should circumstances require further consideration of EHP involvement in any activity on Kingvale that necessitated the involvement of the Investigations Unit, a fresh FIR would be submitted be NCS.

Your assistance with this matte has been appreciated.

Regards

mike

Michael Devery
Manager NCS Compliance

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Department of Environment and Heritage Protection
Work: 33305257
Mob: sch4p4(6) Perso

From: PRICE Hugh
Sent: Monday, 15 February 2016 3:36 PM
To: DEVERY Michael
Cc: BATES Andrew
Subject: IS 2015-019 Kingvale Clearing

Hi Mike,

As briefly discussed whilst you were here in Cairns;

Could you please provide an update as to the current status of this matter and advise if Investigator support is still required as per the attached request form?

It was my understanding from our recent conversation that you have recently submitted a Briefing Note in relation to this matter.

Regards,

Hugh.

Hugh Price
Senior Investigator
Investigations I Petroleum, Gas and Compliance
Department of Environment and Heritage Protection

P (07) 42225469 M sch4p4(6) Pe
Level 3/5B Sheridan Street/ Cairns
PO Box 7230, Cairns QLD 4870

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From: DEVERY Michael [Michael.Devery@ehp.qld.gov.au]
Sent: Tuesday, 9 August 2016 7:26 AM
To: WILLIAMS Rebecca (EHP)
CC: WILLIAMS Allan; MOHR Maria
Subject: Commonwealth call in of areas of proposed clearing on Kingvale

Hi Beck
As per the information I sent to Allan and yourself last night, that part of the proposed clearing on Kingvale (approved by the previous Queensland Government for high value agriculture) which falls within the Normanby Catchment has been called in by a delegate of the Commonwealth Environment Minister and is now subject to public submissions prior to determination as to whether it will constitute a controlled action under the EPBC.

With your concurrence I propose to refer the matter to Elisa Nichols in the Office of the Great Barrier Reef for consideration regarding the opportunity to make a submission, which closes on 22 August 2016.

Regards

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
W: (07) 33305257
Mob: sch4p4(6) Persc
michael.devery@ehp.qld.gov.au

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From: WILLIAMS Rebecca (EHP) [Rebecca.Williams@ehp.qld.gov.au]
Sent: Tuesday, 9 August 2016 10:15 AM
To: DEVERY Michael
CC: WILLIAMS Allan; MOHR Maria
Subject: RE: Commonwealth call in of areas of proposed clearing on Kingvale

Yes
Regards
Beck

Rebecca Williams
Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
P 07 3330 5512 (Ext: 25512) | | **E** Rebecca.williams@ehp.qld.gov.au
400 George St, Brisbane QLD 4000
GPO Box 2454, Brisbane QLD 4001

From: DEVERY Michael
Sent: Tuesday, 9 August 2016 7:26 AM
To: WILLIAMS Rebecca (EHP) <Rebecca.Williams@ehp.qld.gov.au>
Cc: WILLIAMS Allan <Allan.Williams@ehp.qld.gov.au>; MOHR Maria <Maria.Mohr@ehp.qld.gov.au>
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Regards

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
W: (07) 33305257
Mob: sch4p4(6) Perso
michael.devery@ehp.qld.gov.au

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From: DEVERY Michael [Michael.Devery@ehp.qld.gov.au]
Sent: Tuesday, 9 August 2016 5:18 PM
To: DEVERY Michael
Subject: FW: kingvaleinjunct.doc.docx
Attachments: image002.png; image003.png; image005.jpg

From: DEVERY Michael
Sent: Wednesday, 16 December 2015 12:11 PM
To: WILLIAMS Rebecca <Rebecca.Williams@ehp.qld.gov.au>
Cc: CLARE Geoff <Geoff.Clare@ehp.qld.gov.au>
Subject: Re: kingvaleinjunct.doc.docx

No high risk mapping for PPs on Kingvale and DoE and EHP considered it low possibility based on Olive Vale.

As at 15 December, neither the DoE or QPWS ecologists (though not plant experts) did not observe any threatened plants species in the course of the current inspection of Kingvale.

mike

Sent from my iPhone

On 16 Dec 2015, at 11:56 am, WILLIAMS Rebecca <Rebecca.Williams@ehp.qld.gov.au> wrote:

> Geoff : I will get Mike to confirm however:
>
> - we did not look on the ground for threatened plants however based on experience from Olive Vale and Strathmore, advice from John Clarkson and that not mapped high risk … unlikely. However we could check on Wildnet as well if we haven't already.
> - yes, if some found then protected plants mean that first step is a survey.
>
> regards
> Beck

Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
☎ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

From: CLARE Geoff
Sent: Wednesday, 16 December 2015 11:39 AM
To: WILLIAMS Rebecca
Subject: RE: kingvaleinjunct.doc.docx

Peter Spencer asked yesterday raised the protect plant aspect. So a couple of questions for Mike that would be good to nail down before tomorrow as Peter will likely raise at the Min/DG:

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Have we looked for threatened plants?
And were we to find some would that legislatively raise the bar for the landholder more generally to look for more or just to act lawfully in relation to the ones we find? (I believe there are no currently mapped high risk PP areas in the clearing approval)

From: WILLIAMS Rebecca
Sent: Wednesday, 16 December 2015 11:21 AM
To: CLARE Geoff
Cc: DEVERY Michael; SPRAGG James
Subject: FW: kingvaleinjunct.doc.docx

as requested
regards
Beck

Rebecca Williams
A/Executive Director
Nature Conservation Services
Department of Environment and Heritage Protection
☏ 07 3330 5512 http://www.ehp.qld.gov.au
Floor 5, 400 George Street, Brisbane Q 4000
GPO Box 2454, Brisbane Q 4001

From: DEVERY Michael
Sent: Wednesday, 16 December 2015 11:19 AM
To: WILLIAMS Rebecca
Cc: SPRAGG James
Subject: kingvaleinjunct.doc.docx

Beck
Updated brief on Kingvale as requested.

Regards

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
Work: 33305257
Mob: sch4p4(6) Perso

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From: MOHR Maria
Sent: Tuesday, 9 August 2016 5:28 PM
To: DEVERY Michael; WILLIAMS Allan
Subject: RE: Kingvale

Thanks heaps. Much appreciated. M

From: DEVERY Michael
Sent: Tuesday, 9 August 2016 5:28 PM
To: MOHR Maria <Maria.Mohr@ehp.qld.gov.au>; WILLIAMS Allan <Allan.Williams@ehp.qld.gov.au>
Subject: FW: Kingvale

Maria
Based on the below extract from the report from the 14 and 15 December 2015 joint inspection. As per green highlighting no EVNTs sighted and all the rest that were observed (yellow highlighting) were least concern species which you can't base an ICO on. Unless the Commonwealth has confirmed EVNT presence that we're not aware of, I'd say it would be challenging to ground an ICO on current knowledge.

Site Inspection

- EHP officers assisted DoE with an inspection of Kingvale under authority of a monitoring warrant obtained under the EPBC on 14 and 15 December 2015.
- DoE conducted the inspection with a DoE investigator and two consultants (a hydrographer and a bat expert). EHP provided a wildlife officer and a Queensland Parks and Wildlife Service ecologist.
- The inspection which commenced on 14 December 2015, focused on the approved clearing footprint on the northern section of Kingvale where it was considered the highest potential existed for matters of National or State significance may exist.
- As at 10am on 15 December 2015, no threatened or near threatened (EVNT) species under the either the EPBC or NCA had been observed within or immediately adjacent to the approved clearing foot print on the northern section of the property.
- However in the course the inspection on 14 December 2015, EHP officers observed one sugar glider in a tree immediately adjacent to the approved permit area and found scats of brush-tail possums within the approved permit area.
- Additionally a freshwater crocodile was observed in the watercourse adjacent to the approved permit area as well as a large number of least concern bird species, a number of ground dwelling least concern reptiles and approximately seven species of least concern amphibians (all amphibians where recorded within the buffered area of the watercourse).
- Twenty Elliot and cage traps which were set by EHP within and immediately adjacent to the approved permit area on 14 December 2015 did not capture any animals overnight.
- Several nests of least concern bird species were observed on the approved permit area, however these did not appear to be in use.
- EHP officers were advised by the bat expert engaged by DoE that on 14 December 2015, four least concern microbat species were recorded within and immediately adjacent to the northern clearing foot print. The consultant advised that he planned to continue to conduct surveys at the site over the period 15, 16 and17 December 2015.

mike

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From: DEVERY Michael
Sent: Tuesday, 9 August 2016 5:15 PM
To: MOHR Maria <Maria.Mohr@ehp.qld.gov.au>; WILLIAMS Allan <Allan.Williams@ehp.qld.gov.au>
Subject: RE: Kingvale

We didn't record any on the brief field inspection with DoE Maria, but I'll check the Wildnet list and come back shortly.

From: MOHR Maria
Sent: Tuesday, 9 August 2016 5:12 PM
To: WILLIAMS Allan <Allan.Williams@ehp.qld.gov.au>; DEVERY Michael <Michael.Devery@ehp.qld.gov.au>
Subject: Kingvale

Hi – quick q – are there any EVNT on Kingvale? See where I'm heading?? Maybe another ICO??????

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From: DEVERY Michael [Michael.Devery@ehp.qld.gov.au]
Sent: Monday, 29 August 2016 11:34 AM
To: LEE Linda
Subject: FW: Commonwealth call in of areas of proposed clearing on Kingvale

---

From: DEVERY Michael
Sent: Tuesday, 9 August 2016 7:26 AM
To: WILLIAMS Rebecca (EHP) <Rebecca.Williams@ehp.qld.gov.au>
Cc: WILLIAMS Allan <Allan.Williams@ehp.qld.gov.au>; MOHR Maria <Maria.Mohr@ehp.qld.gov.au>
Subject: Commonwealth call in of areas of proposed clearing on Kingvale

Hi Beck
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With your concurrence I propose to refer the matter to Elisa Nichols in the Office of the Great Barrier Reef for consideration regarding the opportunity to make a submission, which closes on 22 August 2016.

Regards

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
W: (07) 33305257
Mob: sch4p4(6) Perso
michael.devery@ehp.qld.gov.au

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Regards

mike

Michael Devery
Manager NCS Compliance
Department of Environment and Heritage Protection
W: (07) 33305257
Mob: sch4p4(6) Perso
michael.devery@ehp.qld.gov.au

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