

Delbessie Agreement—duty of care obligations

The Delbessie Agreement (State Rural Leasehold Land Strategy) is a Queensland Government initiative under Blueprint for the Bush.

It provides an essential framework to support profitable and productive agricultural enterprises and addresses the natural resource management issues challenging the management and use of state rural leasehold land.

The agreement was signed in December 2007 at 'Delbessie'—a property north of Hughenden and aims to:

- balance the profitable land use with healthy land, vegetation and water
- improve the capacity of land managers to adapt to future challenges and emerging issues such as climate change.

What is duty of care?

A common law duty of care already exists, which requires each person to take all reasonable and practical steps to avoid causing foreseeable harm to another person, their land, or their use and enjoyment of that land.

What are the existing duty of care obligations?

Queensland legislation has extended the common law duty of care and outlined specific requirements that are referred to as 'statutory duty of care' and include:

- a statutory general duty on all Queenslanders not to cause environmental harm (s.319, *Environmental Protection Act 1994*)
- occupiers of state land (s.199, *Land Act 1994*)
- anyone who carries out a land-use activity to ensure it does not harm Aboriginal cultural heritage (*Aboriginal Cultural Heritage Act 2003*).

The duty of care also requires observance of all relevant regulatory restrictions.

The *Environmental Protection Act 1994* states that all Queenslanders have a general environmental duty. This means that we must not carry out any activity that causes or is likely to cause environmental harm, unless we take all reasonable and practicable measures to prevent or minimise the harm.

New duty of care obligations

For leases issued for agricultural, grazing or pastoral purposes, the agreement requires leaseholders to take all reasonable steps to:

- maintain pastures dominated by perennial, preferential and productive species
- maintain native grasslands free of encroachment
- protect riparian vegetation
- manage declared pests
- avoid causing or contributing to salinity that reduces the productivity of the leased land, or causes damage to any other land
- conserve soil, water resources and biodiversity.

Compliance with lease conditions, including the 'duty of care condition', is taken into consideration by the Minister for Natural Resources, Mines and Energy and Minister for Trade, when a leaseholder makes an application to change or renew an existing tenure.

Providing evidence of duty of care

Examples where leaseholders may show that they are exercising a duty of care are:

- preparing, implementing and reviewing a comprehensive property-level plan
- regularly monitoring the condition of natural resources
- keeping records of activities and the results of monitoring
- implementing and complying with a land management agreement.

The Delbessie Agreement will provide administrative procedures and some information guides to help leaseholders to understand and meet their statutory obligations.

Cultural heritage duty of care

Leaseholders are encouraged to consult with traditional owners to ensure that they meet their duty of care under the *Aboriginal Cultural Heritage Act 2003*.

The identification and protection of cultural heritage is a component that must be addressed in land management agreements.

A number of fact sheets have been developed outlining the cultural heritage duty of care requirements and are available on the Department of Environment and Resource Management (DERM) website <www.derm.qld.gov.au>.



Further information

Further information about the Delbessie Agreement is available on the DERM website <www.derm.qld.gov.au>.

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