

SUMMARY OF STATE AND TERRITORY NOXIOUS WEEDS LEGISLATION

VICTORIA

Weed legislation contact

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Relevant legislation

The principal legislation is the Catchment and Land Protection Act 1994 (CaLP Act). The CaLP Act is administered by the Department of Sustainability and Environment (DSE) who employ Pest Management Officers through the Department of Primary Industries (DPI) to enforce provisions of the CaLP Act. Noxious weeds are a component of the CaLP Act, which establishes a framework for the integrated management and protection of catchments through community participation in the management of land and water resources.

There is also provision under the Local Government Act 1989 for councils to enact local by-laws targeting specific weeds.

The extracts below highlight some of the key provisions relating to noxious weeds in Victoria. The complete current version of the Act can be found at www.dms.dpc.vic.gov.au.

Extracts

20 General duties of land owners

- (1) In relation to his or her land a land owner must take all reasonable steps to—
 - (d) eradicate regionally prohibited weeds; and
 - (e) prevent the growth and spread of regionally controlled weeds.
- (2) A land owner must take all reasonable steps to prevent the spread of regionally controlled weeds and established pest animals on a roadside that adjoins the land owner's land.
- (3) Subsection (2) does not apply to a roadside which is—
 - (a) a freeway or an arterial road within the meaning of the **Road Management Act 2004**; or
 - (b) Crown land held under a lease or licence by a person other than the land owner; or
 - (c) land exempted from that subsection by a special area plan; or
 - (d) Crown land in a national park or park within the meaning of the **National Parks Act 1975** or in a protected forest within the meaning of the **Forests Act 1958**; or
 - (e) Crown land managed by a public authority other than the Secretary, or a Minister other than the Minister; or
 - (f) Crown land reserved under the **Crown Land (Reserves) Act 1978** for a purpose other than a road.

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58 Classification of pests—general

(1) On the Minister's recommendation the Governor in Council, by Order published in the Government Gazette, may declare—

- (a) a plant to be a state prohibited weed, regionally prohibited weed, regionally controlled weed or restricted weed

71 Spread of noxious weeds

(1) A person must not—

(b) without a permit from the Secretary—

- (i) buy or offer to buy in Victoria; or
- (ii) sell or offer to sell in Victoria; or
- (iii) possess for the purposes of sale in Victoria; or
- (a) display in Victoria; or
- (b) plant or propagate in Victoria; or
- (iv) wilfully bring or cause to be brought into Victoria; or
- (v) transport within Victoria—

the following—

- (vi) a noxious weed; or
- (vii) the seeds of a noxious weed whether or not packed or mixed with the seeds of any other plants; or
- (viii) any part of a noxious weed that is capable of growing whether or not packed or mixed with the parts of any other plants; or

(c) without a permit from the Secretary, remove or cause to be removed or sell soil, sand, gravel or stone which contains or is likely to contain any part of a noxious weed, or which comes from land on which noxious weeds grow; or

(d) without a permit from the Secretary, remove or cause to be removed or sell fodder or grain which contains the seeds or any other part of a noxious weed that is capable of growing; or

(e) without a permit from the Secretary, sell or hire, or offer for hire, a substance or machinery that is used or intended to be used in primary production and which contains the seeds or any other part of a noxious weed that is capable of growing; or

(f) without a permit from the Secretary, sell an animal which is carrying seeds of a noxious weed; or

(g) without a permit from the Secretary, deposit on land—

- (i) a noxious weed; or
- (ii) the seeds of a noxious weed that are apparently capable of germinating.

(2) Subsection (1)(f) does not apply to the sale of farm animals direct to a meat processing facility within the meaning of the **Meat Industry Act 1993**.

Key points are that the Act:

- regulates management of noxious weeds;

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- prohibits the movement and sale of noxious weeds of all categories anywhere in the state;
- covers weed seeds occurring as contaminants in seed lots or other plant products.
- the Minister may only recommend for declaration, a plant that is, or has or **may** have the potential to become, a serious threat to primary production, Crown land, the environment or community health in Victoria or in another State or a Territory of the Commonwealth.

There are four categories of noxious weeds defined under the CaLP Act:

- **State Prohibited Weeds**

These weeds either do not occur in Victoria, but pose a significant threat if they invade, or are present, pose a serious threat and can reasonably be expected to be eradicated. If present, infestations of a State Prohibited Weed are relatively small. They are to be eradicated if possible from Victoria or excluded from the State. The Victorian Government is responsible for their eradication, but under Section 70(1) of the CaLP Act it may direct land owners to prevent their growth and spread.

- **Regionally Prohibited Weeds**

Regionally Prohibited weeds are not widely distributed in a Region but are capable of spreading further. It is reasonable to expect that they can be eradicated from a Region and they must be managed with that goal. Land owners, including public authorities responsible for Crown land management, must take all reasonable steps to eradicate Regionally Prohibited weeds on their land.

- **Regionally Controlled Weeds**

These weeds are usually widespread and are considered important in a particular Region. To prevent their spread, continuing control measures are required. Land owners have the responsibility to take all reasonable steps to prevent the growth and spread of Regionally Controlled weeds on their land.

- **Restricted Weeds**

This category includes plants that pose an unacceptable risk of spreading in this State or to other parts of Australia if they were to be sold or traded in Victoria, and are a serious threat to another State or Territory of Australia. Trade in these weeds and their propagules, either as plants, seeds or contaminants in other materials is prohibited.

In addition, Victoria has also declared certain plants as **Noxious Aquatic Species** under the Fisheries Act 1995. These plants pose a serious threat to a fishery, the aquatic environment or human health. It is an offence to bring into Victoria or possess, sell, transport or release them.

There are ten Catchment Management Authorities in Victoria. These Catchment Management Authorities are responsible for the management and protection of land and water resources within each catchment. With the Victorian Catchment Management Council, they advise the Minister on which weeds to proclaim and within which category.

The strategic approach to the management of the risks imposed by weeds in Victoria is outlined in the Invasive Plants and Animals Policy Framework and applied in Regional Invasive Plant and Animal Strategies.

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Further information can be found on the DPI website (www.dpi.vic.gov.au/weeds). Under this section is a Landcare Note on the currently declared noxious weeds that can be downloaded for further information.

<u>KEY</u>	<u>Victoria</u>
Category	
S	State Prohibited Weeds. These are weeds that are, or have or may have the potential to become, a serious threat to primary production, Crown land, the environment or community health in Victoria or in another State or a Territory of the Commonwealth. They do not occur in Victoria or it is reasonable to expect that they can be eradicated from the State.
P	Regionally Prohibited Weeds. These are weeds that are, or have or may have the potential to become, a serious threat to primary production, Crown land, the environment community health in Victoria or in another State or a Territory of the Commonwealth. They are not widely distributed throughout the region, are capable of spreading further and it is reasonable to expect that they can be eradicated from the region.
C	These are weeds that are, or have or may have the potential to become, a serious threat to primary production, Crown land, the environment or community health in Victoria or in another State or a Territory of the Commonwealth. They occur in the region, are capable of spreading further and continuing control measures are required to prevent their spread.
F	Statewide Noxious Aquatic Species. Plants that pose a serious threat to a fishery, the aquatic environment or human health. Declared under the <i>Fisheries Act 1995</i> , it is an offence to bring these plants into Victoria or possess, sell transport or release them.
R	Restricted Weeds. These are weeds that are, or have or may have the potential to become, a serious threat to primary production, Crown land, the environment or community health in Victoria or in another State or a Territory of the Commonwealth. They pose an unacceptable risk of spread if they were sold or traded.
Regional Declarations	
Numbers	Numbers following categories refer to the number of regions in which the weed is declared.
Notes (a) to (d) are no longer relevant and have been removed	
(e)	All <i>Salix</i> spp. except for the permitted species, <i>S. alba</i> var. <i>caerulea</i> , <i>S. alba</i> var. <i>matsudana</i> , <i>S. babylonica</i> (weeping willow), <i>S. x calodendron</i> (pussy willow), <i>S. caprea</i> 'Pendula', <i>S. matsudana</i> 'Aurea', <i>S. matsudana</i> 'Tortuosa', <i>S. myrsinifolia</i> and <i>S. x reichardtii</i> (pussy willow).

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WESTERN AUSTRALIA

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NOTE –

Agriculture and Food WA is currently re-drafting the *Agricultural and Related Resources Protection Act 1976* which is expected to be completed later this year (2010). You are encouraged to check for these changes from time to time which will be notified here.

Relevant legislation

The principle legislation is the *Agricultural and Related Resources Protection Act 1976* (ARRPA). This Act is administered by the Agriculture Protection Board (APB), which is now incorporated into the Department of Agriculture. Regional Advisory Committees advise the APB on weed and other protection issues within WA and the Board has the authority to declare plants for part or all of the State under five different categories. The State's quarantine responsibilities are handled by the Western Australian Quarantine Inspection Service (WAQIS) operating within the Department of Agriculture.

Related legislation is the *Plant Diseases Act 1989* (PDA). This Act is concerned primarily with pests and diseases. However, weeds are regarded as a form of plant disease under this Act with provisions allowing for plants to be permitted or excluded for quarantine purposes.

The Department of Agriculture has a single list of plants which currently operates under the PDA. This list contains permitted and prohibited plants, with any species not on the list being prohibited unless assessed to be eligible for addition to the list.

In addition to declared plants under the ARRPA, there is also provision for a shire council to prescribe any plant, other than a declared plant, as a pest plant within its municipality.

Extracts

Section 36 of the ARRPA states:

- (1)...a class of declared plants...may, by declaration under section 35, be assigned to one or more categories for the purposes of this Act according to the measures that, in the opinion of the Protection Board, need to be taken in relation to declared plants...of that class in order to achieve the object of this Act.
- (2)A class of declared plants...may, by declaration under section 35, be assigned to different categories in respect of different parts of the State

Section 72 of the ARRPA states:

- Any person who, for any purpose or in any manner, brings any prohibited material-
- (a) into the State from elsewhere; or

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(b) into any part of the State from some other part of the State or from elsewhere, commits an offence.

Section 75 states:

(1a) A person who, in any part of the State, sells or offers or exposes for sale any coat, fodder, machinery, sack, seed, wool pack, or restricted animal, shall first examine it or cause it to be examined for the presence of material that is prohibited material in that or any other part of the State.

Subsequent owners of items are also required to have them examined for the presence of material prohibited in that part of the State.

Section 75 states:

(1b) ...a person shall not, in any part of the State, sell or offer or expose for sale any coat, fodder, machinery, sack, seed, wool pack, or restricted animal in or on which there is any material that is prohibited material in that part of the State except pursuant to approval

Key points of the ARRPA are that it:

- Regulates entry and movement of declared plants;
- Clearly makes provisions to prevent the sale of declared plants; and
- Covers weed seeds as a contaminant in produce.

There are five categories of declared weeds defined under the ARRPA with the following aims:

- **P1**-Prohibits movement of declared plants and/or their seeds through the prevention of trade, sale or movement of plants into the State or that area of the State;
- **P2**-Eradication of plants from the State or that area of the State;
- **P3**-Controlling infestations by reducing area and/or density of infestation from the State or that area of the State;
- **P4**-Preventing infestations spreading beyond existing boundaries of infestation; and
- **P5**-Infestations must be controlled on public land or land under the control of a local government.

Further information can be found on the Department of Agriculture website (<http://www.agric.wa.gov.au/weeds.htm>). Under declared plants database, a search can be done for individual weeds or to see the full declared plants list. Clicking on individual weeds will show recommended control methods.

Using the search function (weed science) will take you to the weed science homepage, which also provides links to a number of useful weed documents and under 'Importing Plants', the permitted and prohibited list.

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<u>KEY</u>	<u>Western Australia</u>
<p>Western Australia uses a Permitted and Prohibited list for plants permitted entry into the State. Only prohibited plants listed as noxious or declared weeds by another State/Territory and not declared in WA have been included in this database. Species not included in the Permitted and Prohibited list require a weed risk assessment before being allowed entry into WA.</p>	
Category	
Prohib	Plant species on the Permitted and Prohibited list not permitted entry into WA under the <i>Plant Diseases Act 1974</i> .
	Declared weed species listed in the <i>Agriculture and Related Resources Protection Act 1976</i> only –
P1	PREVENTION of trade, sale or movement
P2	ERADICATE-Serious weeds which are not yet widely established in WA.
P3	CONTROL-Serious weeds which cannot be eradicated in the short term, but must be kept under control.
P4	CONTAIN-Well-established plants where reducing the infestation is either impractical or uneconomical.
P5	Weeds to be CONTROLLED on public land or land under the control of a local government.
Notes	
(a)	Not including <i>Orobanche cernua var australiana</i> (Australian broomrape) and <i>O. minor</i> (clover broomrape).
(b)	All <i>Salix</i> spp. except for the permitted species, <i>S. babylonica</i> (weeping willow), <i>S. x calodendron</i> (pussy willow) and <i>S. x reichardtii</i> (pussy willow).
Regional Declarations	
^	Not prescribed for whole of the State.

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SOUTH AUSTRALIA

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Relevant legislation

As of 1 July 2005, the relevant legislation is the *Natural Resources Management Act 2004*. The NRM Act repealed the previous relevant legislation, the *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*.

The NRM Act is administered by the Department of Water, Land and Biodiversity Conservation and implemented throughout the State by Natural Resource Management authorities; these may be the eight regional Natural Resource Management Boards or Natural Resource Management groups set up at the local level. The Animal and Plant Control Boards set up under the former *Animal and Plant Control (Agricultural Protection and Other Purposes) Act, 1986*, remain in operation as local Natural Resource Management groups during the transition period. Natural Resource Management authorities employ local Authorised Officers to inspect properties.

Extracts

Section 174 of the Act states:

- (1) The Minister may, by notice in the Gazette-
 - (a) declare that a specified provision of this Chapter applies to
 - (i) a specified class of animals, or
 - (ii) a specified class of plants, and
 - (b) in addition, with respect to a class of animals or plants specified under paragraph (a), do either or both of the following:
 - (i) declare that a specified area (which may be the whole or a part of the State) is a control area for that class of animals or plants for the purposes of that provision;
 - (ii) declare that a prohibition contained in that provision operates as an absolute prohibition in relation to that class of animals or plants and control area (if any)

Section 175 of the Act states:

- (1) Subject to this Act, a person must not bring an animal or plant of a class to which this subsection applies, or cause or permit an animal or plant of a class to which this subsection applies to be brought, into a control area for that class of animals or plants.
- (2) Subject to this Act, a person must not transport or move, or cause or permit to be transported or moved, on a public road within a control area for a class of plants to which this subsection applies-
 - (a) a plant of that class; or

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- (b) any animal, plant, soil, vehicle, farming implement or other produce, goods, material or thing carrying a plant of that class.

Section 177 states:

- (1) Subject to this Act, a person must not sell an animal or plant of a class to which this subsection applies.
- (2) Subject to this Act, a person must not sell any animal, plant, soil, vehicle, farming implement or other produce, goods, material or thing carrying a plant of a class to which this subsection applies.

Key points are that the Act:

- Provides for enforced control or destruction of declared plants in part or all of the State;
- Regulates entry and movement of declared plants within the State; and
- Prevents the sale of produce contaminated with seeds of a declared plant anywhere in the State.

Plants may be declared under one or more sections of the Act, each section regarding a specific provision for control of plants:

- Section 175 restricting the movement of plants or produce or goods carrying such plants;
- Section 177 restricting the sale of plants or produce or goods carrying such plants;
- Section 180 requiring the notification of the presence of plants; and
- Section 182 requiring the owner of land to destroy or control plants.

Control of a weed infestation can be enforced under section 183 by an Authorised Officer who requires the landowner to prepare and implement an action plan.

Independently of these sections, declared plants are also grouped into three categories which set the level of the maximum penalty that may be imposed for breaches of the Act.

While declared plants are grouped into 11 classes plus subclasses in the Minister's declaration according to the various provisions of the Act applying to each one, these are generalised groupings. Several different provisions of the Act can apply to the same class of declared plants. A generalisation of the classes is as follows:

- **Class 1** - generally requiring notification and destruction of the plant throughout the whole State (although, sometimes only control in part of the State);
- **Class 2 and 4** - generally requiring notification in at least part of the State and control of the plant throughout the whole State;
- **Class 3, 5 and 7** - generally requiring control of the plant in part of the State;
- **Class 6, 8 and 9** - special provisions apply;
- **Class 10 and 11** - restricting sale only.

For completeness, the numbered class to which each declared plant is allocated is indicated in the database. However, it should be noted that the Department and Natural Resource Management authorities do not refer to these numbered classes in policy documents, fact sheets or other publicly available information.

Owners are responsible for the control of declared plants on their own lands. This includes government departments and agencies on the lands that they own and/or manage. The local Natural Resource Management authorities are responsible for the control of declared plants on road reserves and are empowered under section 185 of the Act to recover costs of control work from the adjoining landowners. The Department of Environment and Heritage is responsible for

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the control of declared plants on unalienated Crown lands, although the local Natural Resource Management authorities may undertake this work on behalf of the Department.

Further information, including the SA list of declared plants, can be found at <http://www.dwlbc.sa.gov.au/biodiversity/pests/weeds/index.html>.

Key

The numbers refer to the class under which the plant is declared. Given the diversity within each class, additional symbols are used to give an indication of the level of notification and control that is required for each declared plant.

Classes

- **Class 1** - generally requiring notification and destruction of the plant throughout the whole State (although, sometimes only control in part of the State);
- **Class 2 and 4** - generally requiring notification in at least part of the State and control of the plant throughout the whole State;
- **Class 3, 5 and 7** - generally requiring control of the plant in part of the State;
- **Class 6, 8 and 9** - special provisions apply;
- **Class 10 and 11** – restricting sale only.

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Weed Categories and Regional Declarations

#	Plant must be destroyed throughout the State (trade and movement usually restricted throughout the State).
^	Plant must be destroyed in part of the State only (trade and movement usually restricted throughout the State).
@	Control required throughout the State (trade and movement usually restricted throughout the State).
*	Control required in part of the State only (trade and movement usually restricted throughout the State).
+	Control not required (usually restricting trade and/or movement only).
N	Notifiable throughout the State.
n	Notifiable in part of the State only.

Notes

- (a) Not including the variety *Trichophylla*
- (b) Not planted carrots (special program in the south-east of SA only).
- (c) Including cultivar *Nypa Reclamation* and any cultivars of *Distichlis spicata* consisting of lines that include seed bearing individuals
- (d) Not including dead shoots.
- (e) Not including the cultivar *Consol*
- (f) Not including trees planted and maintained for domestic or commercial use.
- (g) Not including spineless *Optunia ficus-indica* (Indian fig).
- (h) Not including *Orobanche australiana* (*Orobanche cernua* var *australiana* - Australian broomrape).
- (i) Not including trees planted and maintained for domestic or commercial use.
- (j) Not including seasoned dry timber.
- (k) Not including any detached fruit or the following cultivars when planted and maintained for domestic or commercial purposes under conditions approved by the Minister: Black Satin, Dirksen Thornless, Smoothstem, Thornfree, Loch Ness, Chester Thornless
- (l) All *Salix* spp. except for the permitted species, *S. babylonica* (weeping willow), *S. x calodendron* (pussy willow) and *S. x reichardtii* (pussy willow)
- (m) Enforced eradication in the South Australian Arid Lands Natural Resource Management region.
- (n) Enforced control within 100 metres of a watercourse in the South Australian Arid Lands, Alinytjara Wiluruwara and South Australian Murray Darling Basin Natural Resource Management.

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TASMANIA

Weed legislation contact

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Relevant legislation

The relevant legislation is the *Weed Management Act 1999* (WMA) which was enacted on 1 September 2000. The Act is administered by the Department of Primary Industries, Parks, Water and Environment.

Extracts

Section 9 of the Act states:

- (1) On receipt of the Secretary's recommendation, the Minister, by order, may declare a plant to be a declared weed if satisfied that—
 - (a) the plant may have an adverse impact on—
 - (i) the productive capacity of Tasmania, another State or a Territory; or
 - (ii) any natural or physical resources of Tasmania, another State or a Territory; or
 - (iii) the genetic diversity of an indigenous plant of Tasmania, another State or a Territory; or
 - (iv) the genetic integrity of an indigenous plant of Tasmania, another State or a Territory; or
 - (v) the maintenance of indigenous ecological processes of Tasmania, another State or a Territory; and
 - (b) nature conservation and matters relating to social and economic matters have been taken into account.
- (2) An order may be made in respect of—
 - (a) the whole or any specified part of the State; or
 - (b) any specified circumstances.
- (3) An order in respect of a plant remains in force until whichever of the following occurs first:
 - (a) a weed management plan relating to the plant ceases to be in force;
 - (b) the end of a period of 12 months after the order is made and no draft weed management plan exists in relation to the plant.

Section 15 of the Act states:

- (1) The Minister is to direct the Secretary to prepare a draft weed management plan in respect of any declared weed within 12 months after an order is made under section 9 relating to that weed.

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- (2) A draft weed management plan is to provide for any one or more of the following matters:
- (a) the distribution and extent of the declared weed;
 - (b) the area covered by the weed management plan;
 - (c) the storage in a specified area of anything contaminated with a declared weed;
 - (d) measures to—
 - (i) reduce the number of plants or eradicate a species of plant in an area; or
 - (ii) restrict a species of plant to a particular area;
 - (e) procedures for the notification of the occurrence of specified weeds;
 - (f) measures to prevent entry into Tasmania of the declared weed;
 - (g) any other measures the Minister considers appropriate to control any declared weed.

Section 56 of the Act states:-

Sale, purchase, propagation, use, &c., of declared weed prohibited

- (1) A person must not –
- (a) Sell a declared weed or any material or thing containing or carrying a declared weed; or
 - (b) Purchase or offer to purchase a declared weed or any material or thing containing or carrying a declared weed; or
 - (c) Grow, propagate or scatter a declared weed; or
 - (d) Store a declared weed or any material or thing containing or carrying a declared weed; or
 - (e) Hire or offer for hire any material or thing containing or carrying a declared weed; or
 - (f) Use a declared weed or any material or thing containing or carrying a declared weed; or
 - (g) Deal with a declared weed or any material or thing containing or carrying a declared weed in any manner that is likely to result in the spread of the declared weed.

Penalty:

Fine not exceeding 50 penalty units.

- (2) Subsection (1) does not apply in respect of feed grain for animals that is –
- (a) Carrying a declared weed; and
 - (b) Imported into Tasmania in accordance with any measures prescribed for the purpose of Section 57(2).

Section 57 of the Act States:-

Importation of declared weed

- (1) A person must not import or allow to be imported into Tasmania any declared weed.

Penalty:

Fine not exceeding 50 penalty units.

- (2) A person must not import or allow to be imported into Tasmania, otherwise than in accordance with any prescribed measures, any feed grain for animals that may be carrying a declared weed.

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Penalty:

Fine not exceeding 50 penalty units.

- (3) A person must not import or allow to be imported into Tasmania, otherwise than in accordance with any prescribed measures, any livestock that may be carrying a declared weed.

Penalty:

Fine not exceeding 50 penalty units.

Under the WMA, the State Government may:

- Prohibit the introduction of declared weeds into Tasmania;
- Undertake the eradication of declared weeds;
- Take action aimed at preventing the spread of declared weeds within Tasmania; and
- Require that action be taken against declared weeds where this is necessary to alleviate or prevent a particular problem.

The WMA provides the legislative backing to the State's strategic approach to weed management, 'WeedPlan', and furthers the community consultative approach through the requirement for a Ministerial Statement of Intent to declare a plant that is then available for public comment for a period of 30 days. In addition, following declaration of a weed, a weed management plan for the weed must be prepared within twelve months. The development of the weed management plan also requires a period of public consultation.

A weed management plan must include the name of the target weed, area of the State covered by the plan, distribution and extent of the weed, the reasons for declaring the weed and include restrictions and measures required to control, eradicate or restrict the spread of a weed. Restrictions on import, distribution and sale are also included. Weed Management Plans are the product of extensive consultation and are initiated by Government or other organisations including community groups. There is also a statutory requirement that the plans are reviewed at least every 5 years.

There are 111 weeds declared all under the one category known as "declared weeds" for Tasmania. Requirements for each declared weed are specified in the weed management plan. There are currently 73 approved weed management plans and four draft weed management plans.

Further information, including the declared weeds list and weed management plans, can be obtained from the Department of Primary Industries, Water and Environment website (<http://www.dpiw.tas.gov.au>) under Weeds, Pests and Diseases > Weeds.

<u>KEY</u>	<u>Tasmania</u>
Category	
D	Declared plants. Details on actual restrictions or measures for each declared weed is contained in the weed management plan for that weed
S	A Statement of Intent to Declare these weeds was made by the Minister for Environment and Planning and notification was placed in Tasmanian newspapers

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on 23 June 2005. At this stage, the weeds are not declared in Tasmania

Notes

- (a) *Chrysanthemoides monilifera* including subspecies
- (b) Not including *Orobanche minor* and *Orobanche australiana* (*Orobanche cernua* var *australiana* – Australian broomrape)
- (c) Not including *Salix babylonica* (weeping willow), *S. X calodendron* (pussy willow), *S. x reichardtii* (pussy willow)
- (d) All non-indigenous species of *Striga*

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AUSTRALIAN CAPITAL TERRITORY

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Relevant legislation

The relevant legislation is the *Pest Plants and Animal Act 2005* (PPAA) which became effective on 12 November 2005. This Act replaced the pest plants and animals sections of the *Land (Planning and Environment) Act 1991*. The Act is administered by the ACT Department of Urban Services (Environment ACT).

The purpose of the PPAA is to protect the ACT's land and aquatic resources from threats from pest plants and pest animals, and to promote a strategic approach to pest management.

Extracts

Section 7 of the PPAA states:

- (1) The Minister may, in writing, declare a plant to be a pest plant.
- (2) Without limiting subsection (1), a declaration may declare-
 - (a) that a plant is a pest plant whose presence must be notified to the chief executive (*a notifiable pest plant*); or
 - (b) that a plant is a pest plant that must be suppressed; or
 - (c) that a plant is a pest plant that must be contained; or
 - (d) that a plant is a pest plant whose propagation and supply is prohibited (*a prohibited pest plant*).

Section 8 of the PPAA states:

- (1) The Minister may prepare a plan (*a pest plant management plan*) for the management of a pest plant.
- (2) Without limiting subsection (1), a pest plant management plan may outline requirements for the following, having regard to the potential threat and the practicality of control measures:
 - (a) the suppression or destruction of a pest plant of a particular kind if that is achievable with current knowledge, techniques and resources;
 - (b) the containment of a pest plant if its complete suppression or destruction is impractical.

The Act prohibits:

- The commercial supply of a prohibited pest plant;

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- The reckless supply of a prohibited pest plant or material contaminated with prohibited pest plants;
- The reckless use of vehicles and machinery contaminated with a prohibited pest plant; and
- The reckless disposal of a prohibited pest plant or material contaminated with prohibited pest plants.

Further information is available on the ACT Department of Territory and Municipal Services Environment Homepage <http://www.tams.act.gov.au/play/pcl/pestsandweeds> under 'Pests', and then 'Managing pest plants', which includes the list of pest plant species.

<u>KEY</u>	<u>ACT</u>
Category	
C1	Notifiable pest plant: A pest plant whose presence must be notified to the Chief Executive.
C2	A pest plant that must be suppressed.
C3	A pest plant that must be contained.
C4	Prohibited pest plant: A pest plant whose propagation and supply is prohibited.
Notes	
(a)	All <i>Salix</i> spp. except for the permitted species, <i>Salix babylonica</i> var <i>babylonica</i> (weeping willow), <i>S. x calodendron</i> (pussy willow) and <i>S. x reichardtii</i> (pussy willow).

SUMMARY OF STATE AND TERRITORY NOXIOUS WEEDS LEGISLATION

QUEENSLAND

Weed legislation contact

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Relevant legislation

The relevant legislation is the *Land Protection (Pest and Stock Route Management) Act 2002* (LPA). The LPA and the *Land Protection (Pest and Stock Route Management) Regulation 2003* provide legislative measures to manage pests and address the impacts they have on the economy, the environment and society. The new Act and its regulation commenced on 1 July 2003, although the declaration of Class 3 pests did not come into effect until 1 November 2003.

This Act replaces the previous governing legislation, the *Rural Land Protection Act 1985*. It covers the same subjects as the Rural Lands Protection Act (weeds, pest animals and stock routes), but incorporates modern pest and stock route management priorities, responsibilities and obligations, and provides a framework for the future. The pest provisions of the Act and its regulation are administered by the Department of Employment, Economic Development and Innovation.

Landowners, including state agencies, are required to control declared pest plants consistent with guidelines and local government area pest management plans and the Queensland Weeds Strategy 2002-06.

Under the Local Law provisions of the *Local Government Act 1993*, a local government can declare any plants not declared under the LPA and enforce their control.

The *Land Act 1994* also has provisions requiring control of weeds declared under the LPA on leasehold land.

Extracts

Section 36 of the LPA states:

- A regulation may declare an animal or plant to be a declared pest-
- (a) for the State or a part of the State; and
 - (b) of a category under the regulation.

Section 37 states:

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- (1) ...if the chief executive is satisfied urgent action is needed to protect a part of the State from an adverse economic, environmental or social impact caused, or likely to be caused, by an animal or plant.
- (2) The chief executive may, by a gazette notice...make a declaration under this section for the animal or plant.

Section 38 states:

- (1) The following are the categories of declared pests-
 - (a) Class 1 pest;
 - (b) Class 2 pest;
 - (c) Class 3 pest.
- (2) An animal or a plant may be declared to be-
 - (a) a class 1 pest if the Governor in Council or chief executive is satisfied it-
 - (i) is not commonly present or established in the State; and
 - (ii) has the potential to cause an adverse economic, environmental or social impact in the State, another State or a part of the State or another State; or
 - (b) a class 2 or class 3 pest if the Governor in Council or chief executive is satisfied it-
 - (i) is established in the State; and
 - (ii) is causing, or has the potential to cause, an adverse economic, environmental or social impact in the State, another State or a part of the State or another State
- (3) In deciding whether to declare an animal or plant to be a class 2 or class 3 pest.....must have regard to the following-
 - (a) the significance of the animal's or plant's impact or potential impact;
 - (b) the area affected, or likely to be affected, by the impact;
 - (c) the extent to which the animal or plant has spread or is likely to spread.

Key points are that the LPA:

- Provides a purpose for the Act (s3), how the purpose is to be achieved (s4) and separate pest management principles (s9);
- Recognises the economic, environmental and social impacts of pests (s38);
- Requires State pest management strategies (s10-14);
- Allows for pest management guidelines to set management requirements for each declared pest (s15);
- Requires large landholding State agencies to develop plans for managing pests on these lands (s17-20);
- Requires all local government areas to have pest management plans (s25-35). The plans are to be developed in consultation with the community and with input from government agencies about lands they manage. The plans must be consistent with:
 - State strategies;
 - principles of pest management; and
 - guidelines for pest management.
 Plans remain valid for four years and must be reviewed at least three months before the start of each financial year;
- Simplifies the categories for declared plants (s36-38);
- Provides for emergency declaration powers lasting up to three months (s37) and emergency quarantine powers and notices (s89-93);
- Lists obligations for landowners (s77);
- Allows pest control notices to be imposed on private land (s78) and where that land is the source of a pest(s) that threatens environmentally significant areas for class 3 weeds (s78);
- Prohibits the sale without permission of declared plants or seeds of all categories anywhere in the State (s44);

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- Provides mechanisms to help prevent weed seed spread by livestock, products, soil, machinery and other vectors (s42-46):
 - products contaminated with weed seed of Class 1 cannot be sold (s45); and
 - products contaminated with weed seed of notifiable Class 2 pests may not be sold unless a declaration to the purchaser is made concerning the weeds presence (s45).

There are 3 categories of declared plants defined under the LPA:

- **Class 1**-plants not commonly present in the State and, if introduced, would cause an adverse economic, environmental or social impact. Class 1 plants established in the State are subject to eradication;
- **Class 2**-plants are established in the State and have, or could have, an adverse economic, environmental or social impact. Landowners must take reasonable steps to keep land free of Class 1 and Class 2 plants; and
- **Class 3**-primarily environmental weeds where the plants are established in the State and have, or could have, and adverse economic, environmental or social impact. A pest control notice can only be issued for land that is, or is adjacent to, an environmentally significant area.

Further information on each declared plant is available on the Department of Primary Industries and Fisheries website (www.dpi.qld.gov.au) under Biosecurity > Invasive Plants and Animals, including a fact sheet on declared plants of Queensland.

KEY	Queensland
Category	
C1	plants not commonly present in the State and, if introduced, would cause an adverse economic, environmental or social impact. Class 1 plants established in the State are subject to eradication. It is an offence to introduce, keep or sell Class 1 plants without a permit.
C2	plants are established in the State and have, or could have, an adverse economic, environmental or social impact. Landowners must take reasonable steps to keep land free of Class 2 plants. It is an offence to keep or sell Class 2 plants without a permit.
C3	primarily environmental weeds where the plants are established in the State and have, or could have, and adverse economic, environmental or social impact. A pest control notice can only be issued if the pest is exerting, or potentially exerting an adverse impact on land that is, or is adjacent to, "an environmentally significant area". Class 3 plants cannot be sold.
Notes	
	Class 2 prickly pear <ul style="list-style-type: none"> • common pest pear, spiny pest pear (<i>O. stricta</i>; syn. <i>O. inermis</i>)
(a)	<ul style="list-style-type: none"> • tiger pear (<i>O. aurantiaca</i>) Westwood pear (<i>O. streptacantha</i>) • tree pears: drooping tree pear (<i>O. monacantha</i> syn. <i>O. vulgaris</i>) velvety tree pear (<i>O. tomentosa</i>)
(b)	Whole genus including hybrids declared Class 1 except for <i>Prosopis glandulosa</i> (honey mesquite), <i>P. pallida</i> (algaroba) and <i>P. velutina</i> (velvet mesquite) which are declared as Class 2 weeds.

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- Whole genus declared as Class 1 except *Salix babylonica* (weeping willow), *S. x calodendron* (pussy willow), *S. chilensis* (pencil willow - Class 3 plant), *S. humboldtiana* (pencil willow - Class 3 plant), *S. matsudana* (tortured willow - Class 3 plant) and *S. x reichardtii* (pussy willow).
- (c) Whole genus declared Class 1 except *Salvinia molesta* which is declared as a Class 2 plant.
- (d) Whole genus declared Class 1 except for native species.
- Acacias non-indigenous to Australia (*Acaciella* spp., *Mariosousa* spp., *Senegalia* spp. (other than *Senegalia albizoides*) and *Acacia* spp. (syn. *Vachellia* spp.) other than *Acacia nilotica* and *Acacia farnesiana*)
- (e) cholla cactus (*Cylindropuntia* spp. and their hybrids, other than *C. spinosior*, *C. fulgida* and *C. imbricata*)
- harrisia cactus (*Harrisia* spp. syn. *Eriocereus* spp. other than *H. martinii*, *H. tortuosa* and *H. pomanensis* syn. *Cereus pomanensis*) • honey locust (*Gleditsia* spp. including cultivars and varieties)
- (f) kudzu (*Pueraria montana* var. *lobata*, syn. *P. lobata*, *P. triloba*) other than in the Torres Strait Islands
- (g) only declares bitou bush (not boneseed)
- (h) orabanche is controlled under the Plant Protection Act
- (i) <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/PlantProtR02.pdf>

SUMMARY OF STATE AND TERRITORY NOXIOUS WEEDS LEGISLATION

NORTHERN TERRITORY

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Relevant legislation

The relevant legislation is the Weeds Management Act (WMA) which commenced on 1 July 2001 replacing the Noxious Weeds Ordinance 1962. The Act is administered by the NT Department of Natural Resources, Environment, the Arts and Sport.

Extracts

The purpose of the Act is-

- a. to prevent the spread of weeds in, into and out of the Territory and to ensure that the management of weeds is an integral component of land management in accordance with the Northern Territory Weeds Management Strategy 1996 - 2005 or any other strategy adopted to control weeds in the Territory;
- b. to ensure there is community consultation in the creation of weed management plans; and
- c. to ensure that there is community responsibility in implementing weed management plans.

Under Section 7 of the WMA:

1. The Minister may, by notice in the Gazette, declare a plant to be a declared weed and may classify the declared weed for the purposes of preventing the plant entering into, or managing the plant in, the Territory or a part of the Territory.
2. The Minister may, by notice in the Gazette, declare a plant to be a potential weed for the purposes of managing the plant in the Territory or a part of the Territory.
3. The Minister may only make a declaration under subsection (1) or (2) after he or she has consulted with the Minister responsible for the administration of the Territory Parks and Wildlife Conservation Act concerning the proposed declaration.
4. A declaration under subsection (1) may classify a declared weed having regard to whether it is-
 - a. necessary to eradicate the declared weed;

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- b. necessary to prevent the growing and spreading of the declared weed; or
 - c. necessary to prevent the introduction of the declared weed into the Territory.
5. The classification of a declared weed may be in accordance with a nationally agreed classification scheme or code.

Under section 9 of the WMA:

- (4) A person must not, except in accordance with a permit -
- a. bring a declared weed or take part in, or be responsible for, bringing a declared weed into the Territory;
 - b. propagate or scatter a declared weed;
 - c. sell or offer to sell a declared weed or anything that contains or carries a declared weed;
 - d. hire any equipment, device or thing that contains or carries a declared weed or potential weed;
 - e. purchase or offer to purchase a declared weed or anything that contains or carries a declared weed;
 - f. store, grow or use a declared weed or anything that contains or carries a declared weed; or
 - g. transport or carry on his or her person a declared weed or anything that contains or carries a declared weed.

Key points are that the WMA:

- Has direct links with the Territory's weed management strategy;
- From a Territory functionality perspective, the legislation is consistent with the goals and objects of the National Weeds Strategy;
- Weed management is the responsibility of owners and occupiers of land and they have a general duty to control weeds;
- In order to overcome potential environmental weeds, plant material can only be disposed of on a person's own land or designated weed disposal areas;
- Moving, selling or growing declared weeds is prohibited without a permit;
- The Act binds the Crown so that the government is under the same obligations as other landowners and managers; and
- Has provisions for:
 - Weed management plans;
 - Weed advisory committees;
 - Designated quarantine and cleaning areas; and

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- Use of a declared weed under a permit.

On commencement of the WMA, weeds that were declared under the repealed Noxious Weeds Ordinance 1962 became declared weeds under the new Act. The same weed categories were retained, but with the increased provisions preventing trade and distribution under the new Act.

Further information is available on the NT Department of Natural Resources, Environment and the Arts and Sport website (<http://www.nt.gov.au/nreta/>) under Natural Resources > Weeds, (or go to www.nt.gov.au/weeds), including the current NT declared weeds list.

Key Category	Northern Territory
A	Class A Declared Weeds - to be eradicated.
B	Class B Declared Weeds - growth and spread to be controlled.
C	Class C Declared Weeds - not to be introduced to the Territory. All Class A and B weeds are also Class C weeds.
Regional Declaration	
^	Not prescribed for all of the Territory.
Notes	
(a)	All <i>Salix spp.</i> except for the permitted species, <i>Salix babylonica</i> (weeping willow), <i>S. x calodendron</i> (pussy willow) and <i>S. x reichardii</i> (pussy willow)
(b)	All except subsp. <i>Trychopylla</i>
(c)	All except <i>O. minor</i> , <i>O. cernua</i> var. <i>australia</i>

SUMMARY OF STATE AND TERRITORY NOXIOUS WEEDS LEGISLATION

NEW SOUTH WALES

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Relevant legislation

The relevant legislation is the *Noxious Weeds Act 1993* (NWA). The NWA was reviewed and amended with the changes coming into force on 1 March 2006.

The NWA is administered by the NSW Department of Primary Industries, with Local Control Authorities (LCAs) responsible for implementing the Act on private lands. The LCAs are usually (but not always) either the local government for the area or a special purpose county council.

The Act also establishes the Noxious Weeds Advisory Committee which provides advice and recommendations to the Minister for Primary Industries on all matters relating to the control of noxious weeds in NSW.

Extracts

The objectives of the NWA are:

- (a) to reduce the negative impact of weeds on the economy, community and environment of this State by establishing control mechanisms to:
 - (i) prevent the establishment in this State of significant new weeds; and
 - (ii) restrict the spread in this State of existing significant weeds, and
 - (iii) reduce the area in this State of existing significant weeds,
- (b) to provide for the monitoring of and reporting on the effectiveness of the management of weeds in this State

Section 7 of the Act states:

- (1) The Minister may, by order published in the Gazette, make a weed control order for a specified plant.
- (2) A weed order is to do the following:
 - (a) declare that the plant is a noxious weed,
 - (b) apply a weed control class or classes to the plant,
 - (c) specify the land (being part or the whole of the State) to which the order applies,
 - (d) specify the control measures that are to be, or may be, used to control the plant in general or particular circumstances,
 - (e) specify the control objectives for the plant,
 - (f) specify the term of the order (being a period not exceeding 5 years).
- (3) A plant that is the subject of a weed control order is a "noxious weed" for the purposes of this Act.
- (4) An order takes effect from the date of its publication in the Gazette or on a later date specified in the order.

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- (5) The Minister may not make an order declaring any plant that is native to the State to be a noxious weed, except with the consent of the Minister administering the *National Parks and Wildlife Act 1974*.

Section 8 of the Act states:

- (1) The following weed control classes may be applied to a plant by a weed control order:
- (a) Class 1, State Prohibited Weeds,
 - (b) Class 2, Regionally Prohibited Weeds,
 - (c) Class 3, Regionally Controlled Weeds,
 - (d) Class 4, Locally Controlled Weeds,
 - (e) Class 5, Restricted Weeds.
- (2) The characteristics of each class are as follows:
- (a) Class 1 noxious weeds are plants that pose a potentially serious threat to primary production or the environment and are not present in the State or are present only to a limited extent.
 - (b) Class 2 noxious weeds are plants that pose a potentially serious threat to primary production or the environment of a region to which the order applies and are not present in the region or are present only to a limited extent.
 - (c) Class 3 noxious weeds are plants that pose a serious threat to primary production or the environment of an area to which the order applies, are not widely distributed in the area and are likely to spread in the area or to another area.
 - (d) Class 4 noxious weeds are plants that pose a threat to primary production, the environment or human health, are widely distributed in an area to which the order applies and are likely to spread in the area or to another area.
 - (e) Class 5 noxious weeds are plants that are likely, by their sale or the sale of their seeds or movement within the State or an area of the State, to spread in the State or outside the State.
- (3) A noxious weed that is classified as a Class 1, 2 or 5 noxious weed is referred to in this Act as a “notifiable weed”.

Section 28 of the Act states:

- (1) A person (including a public authority) must not sell or purchase any:
- (a) notifiable weed material or other noxious weed material prescribed by the regulations; or
 - (b) animal or thing which has on it, or contains, notifiable weed material or other noxious weed material prescribed by the regulations,
- knowing it to be, or have on it or to contain, any such weed material.
- (2) An occupier of land (including a public authority) must not knowingly remove or cause to be removed from the land any animal or thing which has on it, or contains, notifiable weed material or other noxious weed material prescribed by the regulations.

There are five outcome based control classes of noxious weeds defined under the NWA based on state, regional or local impacts (see section 8 of the Act above).

Noxious weeds are declared on either an LCA basis or for the whole of the State under the following conditions:

- A declaration for a control Class 1 weed must be for the whole of NSW;
- A declaration for a Control Class 2 weed may be for a part or parts of NSW, but must include a minimum of 3 adjoining local control authority areas;
- A declaration for a Control Class 3 may be for all or part of NSW, but must include a minimum of 3 adjoining local control authority areas; and
- A declaration proposal for a Control Class 4 weed may be for a single local control authority area or parts of a local control authority area.

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Further information can be found on the NSW Department of Primary Industries' website (www.dpi.nsw.gov.au) under Farm Management > Pest and weeds management > Weeds Management. The website includes a searchable noxious weeds database (<http://www.dpi.nsw.gov.au/agriculture/farm/pest-weeds-management/weeds/noxweed>).

<u>KEY</u>	<u>New South Wales</u>
Category	
C1	Class 1 – State Prohibited Weed. Class 1 weeds are also notifiable weeds.
C2	Class 2 – Regionally Prohibited Weed. Class 2 weeds are also notifiable weeds.
C3	Class 3 – Regionally Controlled Weed.
C4	Class 4 – Locally Controlled Weed.
C5	Class 5 – Restricted Weed. Class 5 weeds are also notifiable weeds.
State/Regional Declarations	
Weeds are declared on a Local Control Authority (LCA) basis and declarations for the same noxious weed can vary across the State. There are 128 LCAs. The NSW Department of Primary Industries' weeds database lists weeds by LCA/category/common name/scientific name.	
(Numbers)	Numbers following categories refer to the number of LCAs in which the weed is declared.
(S)	The weed is declared statewide.
Notes	
(a)	All <i>Cuscuta</i> spp. except the native species <i>C. australis</i> , <i>C. tasmanica</i> , <i>C. victoriana</i> .
(b)	All <i>Opuntia</i> spp. except <i>Opuntia ficus-indica</i> (Indian fig).
(c)	All <i>Orobanche</i> spp. except <i>Orobanche minor</i> and <i>Orobanche australiana</i> (<i>Orobanche cernua</i> var <i>australiana</i> – Australian broomrape).
(d)	All <i>Oxalis</i> spp. and varieties except the native species <i>O. chnoodes</i> , <i>O. exilis</i> , <i>O. perennans</i> , <i>O. radicata</i> , <i>O. rubens</i> , and <i>O. thompsoniae</i> .
(e)	All <i>Romulea</i> spp. and varieties except <i>R. rosea</i> var. <i>australis</i> .
(f)	All <i>Salix</i> spp. except for the permitted species, <i>S. babylonica</i> (weeping willow), <i>S. x calodendron</i> (pussy willow) and <i>S. x reichardtii</i> (pussy willow). <i>S. nigra</i> and <i>S. cinerea</i> are also C3 weeds in some LCAs.
(g)	All <i>Striga</i> spp. except native species and <i>S. parviflora</i> .
For a noxious weed declaration for a specific area of the State, check the NSW Department of Primary Industries' weeds database: (http://www.dpi.nsw.gov.au/agriculture/farm/pest-weeds-management/weeds/noxweed).	