



Title	Declaration of noxious weeds	Version	01
Policy no.	O-067	Effective date	16/02/2009
Authorised by	Executive Director Agriculture Biosecurity & Mine Safety	Authorisation date	16/02/2009

1. OVERVIEW

This policy defines the requirements for declaration of noxious weeds under the provisions of the *Noxious Weeds Act 1993*. It sets out the requirements for making submissions for noxious weed declaration and the conditions under which any such submission will be processed.

2. BACKGROUND

Under the *Noxious Weeds Act 1993* (the Act) plants may be declared as noxious weeds by the Minister for Primary Industries under the Control Class specified.

Declaration of a weed can impose considerable costs on public and private landholders and local control authorities. Declaration may also restrict personal freedom by forcing landholders to carry out activities which they would not otherwise carry out, and removing freedom of choice as to what plants a person may grow or possess. There must be a demonstrated public benefit from the proposed declaration.

A declaration may apply to any taxonomic category of plants including a variety, a species; species aggregate or higher groupings of plant species. The relevant Section of the Act is Section 33(b).

Declaration is by way of a Weed Control Order published in the Government Gazette. The relevant Section of the Act is Section 7(1).

The Weed Control Order must, in accordance with Section 7 of the Act, do the following:

- declare that the plant is a noxious weed;
- apply a weed control class or classes to the plant;
- specify the land (being part or the whole of the State) to which the order applies;
- specify the control measures that are to be, or may be, used to control the plant in general or particular circumstances;
- specify the control objectives for the plant; and
- specify the term of the order (being a period not exceeding 5 years).

The Noxious Weeds Advisory Committee (the Committee) provides advice to the Minister on all aspects of noxious weed declaration. The Committee may seek advice on all aspects of weed declarations before providing advice to the Minister.

Applications are normally submitted to NSW Department of Primary Industries (the Department) by local control authorities or regional weeds advisory committees. The NSW Government, members of the public, community groups or the Committee itself may also initiate proposals to change noxious weed declarations. These proposals should first be discussed with the local control authority but, if agreement is not reached, they can be referred to the Weeds Unit staff of the Department who will discuss the proposal with the authority before proceeding.

The proposed declaration should be discussed at the regional weeds advisory committee if there is one in the area. Agreement for a declaration of Control Class 3 or 4 must be reached by the affected authorities before the proposal is submitted to the Department.

The Department prepared reports for the Committee.

The Control Classes that apply to noxious weeds under the Act are:

Class 1 – State Prohibited Weeds

‘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.’

The intent is to provide a high level of action to those weeds of statewide significance.

Class 2 – Regionally Prohibited Weeds

‘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 to a limited extent.’

The intent of this category is to provide a high level of control on a regional basis.

Class 3 – Regionally Controlled Weeds

‘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.’

This Class is intended to provide for enforceable control where necessary on a local or regional basis.

Class 4 – Locally Controlled Weeds

‘Plants that pose the 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.’

This Class is intended to include common and widespread species as well as environmental weeds of more locally specific impact.

Class 5 – Restricted Plants

‘These are plants that are likely, by sale of the plant, or seeds, or movement in the State or an area of the State, to spread in the State or outside the State.’

Scope - requests for a changed declaration must be submitted to the Secretary, Noxious Weeds Advisory Committee, NSW Department of Primary Industries, Locked Bag 21, Orange NSW 2800

3. SCOPE

This Policy applies to all requests for noxious weed declaration changes. It is used by the Department and the Committee to prepare recommendations for the Minister to change the control class or the purpose of Noxious Weed Declarations and outlines the five control categories under the provisions of the Act. The document also sets out the requirements for making submissions for noxious weed declaration, and the conditions under which any such submission will be processed.

4. POLICY

- 4.1 An [application form](#) for local authorities to request a noxious weed declaration is available.
- 4.2 Submissions may be received at any time but only complete submissions received before 30 June will be considered in that year.
- 4.3 Incomplete or inadequate submissions will be returned to the proponent for amendment. These will not be considered for processing until complete.
- 4.4 Processing priority will be given, firstly, in Control Class Order, with Control Class 1 weeds receiving the highest priority; and secondly in order of receipt of complete submissions.
- 4.5 If there is an urgent need to change a declaration, this should be brought to the attention of the Weeds Unit staff of the department. If necessary, changes to

declarations can be considered by the Committee out-of-session or, in extreme cases, an Emergency Weed Control Order may be made.

- 4.6 Any submission will be subjected to a rigorous Weed Risk Assessment System (the Assessment) process to determine the need for and appropriate levels of declaration. The Assessment requires, as a minimum, all information detailed in Appendix 1 of this Policy.
- 4.7 A declaration for a Control Class 1 weed must be for the whole of NSW.
- 4.8 A declaration for a Control Class 2 weed may be for a part or parts of NSW.
- 4.9 A declaration for a Control Class 3 may be for all or part of NSW.
- 4.10 A declaration proposal for a Control Class 4 weed may be for a single local control authority area.
- 4.11 Any submission for a Control Class 4 noxious weed must be accompanied by a management plan for the species. Such plans must be agreed and signed off by the affected local control authorities.
- 4.12 Submissions must include evidence of consultation with affected stakeholders.
- 4.13 Submissions from local control authorities or public authorities must clearly document and define the proponent's commitment to enforcing and to fully resourcing the proposed declaration.
- 4.14 All proposed Weed Control Orders must be subject to public consultation processes before gazettal.
- 4.15 Approval of a new declaration request does not imply provision of additional funds.

5. PROCEDURES

Procedures are under development.

6. DEFINITIONS

change in declaration: For the purpose of this Policy a change in declaration may include a new declaration, revocation of an existing declaration, a change in control class, or a change in the objectives and methods specified for the control class and a renewal of a weed control order that has or is about to lapse in accordance with 7(2)(f) of the Act.

7. RELATED LEGISLATION

Noxious Weeds Act 1993

8. RELATED POLICIES

- O-063 [Role and method of operation of the Noxious Weeds Advisory Committee](#)

9. RELATED DELEGATIONS

NA

10. RELATED DOCUMENTS

Attached to this policy:

- Appendix 1 Minimum information for declaration of a new, or change to an existing noxious weed declaration
- Appendix 2 Hierarchy of plant taxonomy used in Weed Control Orders

Other documents

- [Application For Declaration and Weed Control Plan](#)
- NSW Weed Risk Management System <http://www.dpi.nsw.gov.au/agriculture/pests-weeds/weeds/wrm-system>

Website locations:

- Department website <http://www.dpi.nsw.gov.au/weeds>
- Weeds extranet <http://extranet.dpi.nsw.gov.au/weeds>

11. REVISION HISTORY

Version	Date
NWAC policy 1	November 1995
Revised NWAC 1	February 2006
Revised NWAC 1	4 August 2008
O-067 01	16 February 2009

12. DATE OF NEXT REVIEW

5 years from date of effect of this document

13. CONTACT OFFICER

Team Leader, Invasive Species Strategy and Planning

Appendix 1**Minimum information to enable processing of a proposal change to a noxious weed declaration:**

1. Proponent name, address and contact details.
2. Local weed control authority areas or other defined part of NSW the proposal will affect.
3. Botanical and common names used for the plant appropriately referenced.
4. Current distribution.
5. Estimate of potential distribution based on suitable prediction model. The weed must have the potential to spread and become established in the area. Potential is related to biological factors such as amount of seed set, mode of distribution, plant competitiveness etc. This information must be also aligned to the objectives of the *Noxious Weeds Act 1993* and to the requirements for the proposed Control Class as defined in Section 8 of the Act.
6. Key spread mechanisms. The major means of spread must be identified and the declaration proposal must address these. This includes the natural reproductive process of the plant, natural dispersal mechanisms and assisted dispersal mechanisms.
7. Key problems caused by the species. The weed has, or could have, serious adverse effects on agriculture, the environment or human health.
8. Benefits of control. These must be clearly documented and supported by factual evidence and referenced where possible.
9. Regulatory need for control. Why the provisions of the Act need to be invoked in order to bring this species under control. Market failures etc., the proponent must clearly identify why enforced control of the weed is necessary or desirable.
10. Means of control. There must be reasonable and enforceable means available to control the weed. For a Control Class 4 weed this must include the local control authorities proposed management plan for the species.
11. Intent of control. There must be a firm, clearly documented and costed intention by the local control authority, or other proponent, to implement a planned program to control the weed, if declared, with resources available to them.
12. If appropriate the current Control Class under the Act and a discussion on why that Control Class is not suitable.
13. Plans or strategies that the action on the plant will contribute to including how the local control authorities will monitor success.
14. Estimates of the extra costs for the local control authority, private landowners, State agencies and any others if the plant is declared or control class changed. An estimate of the costs on lands without the change.
15. Details of stakeholders consulted and the results of this consultation.
16. All information supplied should be factual with appropriate sources and references.

Appendix 2

Hierarchy of plant taxonomy used in Weed Control Orders

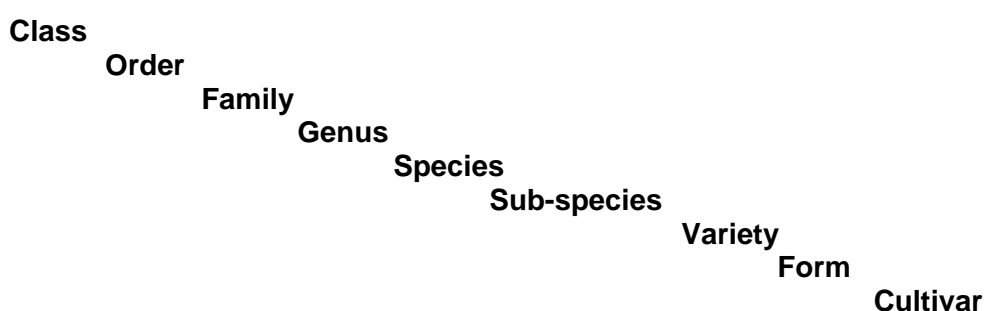
Purpose

The purpose of this paper is to define and clarify the taxonomic hierarchy of naming plant species for use in preparing Weed Control Orders under the *Noxious Weeds Act 1993*.

Taxonomic System

Taxonomy involves a hierarchical system of groupings of species from broad groups progressively down to very specific individuals. At its broadest, taxonomy groups plants into **Classes**, and at its finest identifies specific **forms** or **varieties**.

Plants are classified in the following hierarchical groupings:



Any taxonomic grouping may be referred to as a **taxon** (plural taxa).

Each **Family** contains a number of related groups named **Genera** (singular Genus).

Each Genus is broken down into **species**. A species is a group of individuals, or populations of individuals that have common features and are capable of interbreeding to produce fertile offspring.

Sub-species is a taxonomic category below species level, sub-species differ in terms of minor visible characteristics, for example the size and shape of flowers or leaves.

“**Species Aggregate**” is used where there is a need to group a number of species together but it is not appropriate to use the genus as the grouping classification. This is most often used where there are a number of species and species hybrids in the grouping.

Variety is a taxonomic level below species and sub-species and is used to differentiate a population of plants that vary in some way from another population of plants. Such variation occurs in nature and is not the same as a horticultural variety, that is, it is distinct from a variation that has been selected in cultivation and deliberately grown.

Form is generally used to identify variations that occur between different individuals in a species or sub-species.

Cultivar is used to identify a group of individual plants that have been deliberately selected in cultivation and that are distinguished by any set of characters that are significant for horticulture, agriculture or forestry.

Hybrids are the offspring of genetically different parents. In the taxonomic sense, this is taken to mean the offspring of at least two different species.

Common names can be useful in general terms, they can be misleading in some instances and can also lead to misidentification of species. For these reasons, it is necessary to use the scientific name, particularly in any legal documents and official records.

Taxonomy and the *Noxious Weeds Act 1993*

All noxious weed declarations are made on the basis of the plants scientific name. Even though plants may be listed in Weed Control Orders under a common name, it is the scientific name that provides the definitive identification.

Noxious Weed Declarations may be made at any taxonomic level

The taxonomic system used in naming plants, and consequently in declaring noxious weeds, is **hierarchical and inclusive**.

This means that 'inferior' taxa are also included when a 'superior' taxa is used. For example, when a declaration is made at genus level, all species, sub-species, varieties, forms and cultivars are automatically included. When the declaration is made at species level, all sub-species, varieties, forms and cultivars are included.

Where necessary, "inferior" taxa that are not intended to be included in the declaration will be specifically excluded by name.

References

The information contained in this paper is derived from the NSW Department of Primary Industries Style Guide. Where the Style Guide was silent on a particular matter, material was adapted from the *Flora of New South Wales* series, ed. G. Harden (1992) New South Wales University Press, Kensington.