

## Biosecurity - Formal Weed Inspections

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### Management of the biosecurity risk

The purpose of this procedure is to outline when and how the NSW Government will conduct formal weed inspections. This includes both aquatic and terrestrial weed inspections.

Formal weed inspections are generally conducted by Local Control Authority (LCA) authorised officers in accordance with their powers under the *Biosecurity Act 2015* (the Act). This procedure addresses the process of conducting a formal weed inspection in the circumstance where a NSW Department of Primary Industries (NSW DPI), an office within the NSW Department of Industry, authorised officer is required to undertake a formal weed inspection without being accompanied by an LCA authorised officer.

### Scope

The Act intends for biosecurity to be a shared responsibility for government, industry and the community. This procedure applies to NSW DPI staff in their roles as authorised officers under the Act.

LCAs are responsible for inspecting land for weeds as part of their regulatory functions under the Act. When a formal weed inspection is necessary, NSW DPI must contact the relevant LCA authorised officer to coordinate the weed inspection work. An authorised officer employed by NSW DPI may assist an authorised officer employed by an LCA to conduct a weed inspection.

Assessment of land for the purposes of conducting weed extension field days, sponsored weed control operations, release of biological control agents, or the like, is normally conducted in cooperation with the land occupier &/or the authorised officer from the LCA and is not considered to be a formal weed inspection.

### Biosecurity legislation summary

The presence of weeds can cause biosecurity issues and result in significant impacts on the NSW economy, environment and community. Effective and consistent weed management across NSW using appropriate tools and powers available under the Act can assist in the prevention, elimination and minimisation of the biosecurity risks associated with weeds.

Weeds that have been classified as a major concern in NSW are listed either as prohibited matter in Schedule 2 of the Act, or addressed using other measures including control orders under the Act and mandatory measures and zone regulations in the Biosecurity Regulation 2017. In addition each LLS region will identify priority weeds for their region in their Regional Strategic Weed Management Plan. Many of these priority weeds will not be listed as prohibited matter or the subject of other State level regulation. However, where required, the risk posed by these weeds can be prevented, eliminated or minimised by using the various tools in the Act, including the general biosecurity duty. Formal weed inspections are used as a preventative and surveillance measure to manage weeds in NSW. Formal weed inspections can either be conducted at a scheduled time or take place without prior notice being given to the landholder.

The collection, use and disclosure of information in accordance with this procedure, including any internal or external discussion or distribution of information, must be in compliance with the *Privacy and Personal Information Protection Act 1998* or be exempted by the operation of section 387 of the Act.

Section 387 (2) of the Act provides authority for the disclosure of information about a person, without the consent of the person: to a public sector agency, or to any other person, but only if the disclosure is reasonably necessary for the purpose of exercising a biosecurity risk function.

### **Work health and safety**

The *Work Health and Safety Act 2011* places an obligation on the agency (NSW DPI, LCA and LLS) as a person conducting a business or undertaking and workers to provide a safe and healthy workplace. Safe Work Method Statements that support activities included in this procedure must be used in identifying, assessing and controlling risks.

NSW DPI and other agencies will create a safe and supportive work environment when undertaking any activities for this procedure.

A Road Occupancy Licence is required for any activity likely to impact on traffic flow, even if that activity takes place off-road. Staff must consider that formal inspections have the potential to be a source of conflict with landholders and in such cases, must apply the difficult client SWMS.

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## Formal Weed Inspections

### 1. Roles and responsibilities

#### 1.1 NSW Department of Primary Industries

- NSW DPI Invasive Species Officers or Regulatory Officers provide training or mentoring to LCA authorised officers conducting weed inspections and in meeting their weed management obligations
- NSW DPI Invasive Species Officers provide advice and advisory material about the biosecurity risks of invasive weeds, the general biosecurity duty that results from those risks and measures to mitigate (prevent, eliminate or minimise) such risks
- Directors within NSW DPI consider emergencies, new incursions, biosecurity events, non-compliant councils etc. and make arrangements for formal weed inspections
- NSW DPI Invasive Species Officers or Regulatory Officers conduct formal weed inspections when determined reasonably necessary
- all staff are to maintain records of their weed inspection work.

### 2. Formal weed inspections under the *Biosecurity Act 2015*

When a formal weed inspection is necessary, NSW DPI must contact the relevant LCA authorised officer and coordinate a time for the LCA to carry out the formal weed inspection.

Formal weed inspections are necessary when there is a breach or suspected breach of the Act. This could include identification or suspected identification of a weed classified as prohibited matter or a weed incursion identified as a species not previously existing in NSW. It is within an LCA's jurisdiction to inspect land in connection with its weed control functions as prescribed in the Act.

NSW DPI may assist any authorised officer from an LCA in conducting a formal weed inspection and an LCA authorised officer can request assistance from NSW DPI where difficulty is being experienced by the LCA authorised officer. Note: Where NSW DPI and LLS conduct a weed inspection in collaboration, the inspection will normally be led by the LCA officer.

### 3. General biosecurity duty

Anyone who knows or ought reasonably to know of the biosecurity risk posed by weeds that they are dealing with has a biosecurity duty to mitigate (prevent, eliminate or minimise) such risk as far as is reasonably practicable.

The general biosecurity duty applies to all landowners as well as authorised officers. NSW DPI and LLS authorised officers have a duty to report suspected prohibited matter to an LCA authorised officer in the listed circumstances outlined below.

### 4. Circumstances NSW DPI conduct formal weed inspections

The following list of circumstances are triggers for a NSW DPI authorised officer to carry out formal weed inspections without the presence of an LCA authorised officer:

- when an LCA authorised officer has failed to meet any of their weed control functions or obligations as prescribed under the Act:

- an LCA authorised officer has consistently failed in meeting their functions under the Act and it is necessary to inspect properties to gather evidence before recommending action
- an LCA authorised officer or public authority has been reported as failing to meet their weed management duties.
- when a NSW DPI authorised officer, during the course of normal duties, notices what they suspect to be a prohibited matter weed or high-risk weed species and there is a requirement to inspect urgently to confirm details before alerting the LCA weeds officer
- when the NSW DPI authorised officer, during the course of normal duties, notices what they suspect to be a high-risk or prohibited activity or carrier where immediate action is needed to prevent or control a biosecurity event
- a property has been subject to multiple high-level complaints (e.g. to Minister), and the NSW DPI authorised officer needs to inspect to confirm the situation
- as part of a Biosecurity Audit.

If a NSW DPI authorised officer notices a more common species on land where urgent attention is not required, they must report their suspicions to the relevant LCA rather than conducting a formal weed inspection.

## 5. Training

A person must be appointed as an authorised officer under the Act in order to conduct a formal weed inspection. NSW DPI will provide approved biosecurity legislation training and participants will be awarded a certificate of attainment upon completion of the training. It is also desirable that authorised officers attain nationally accredited enforcement training to a level appropriate for their role.

## 6. Inspection requirements

- the NSW DPI authorised officer must consult and gain approval from their supervisor prior to conducting a formal weed inspection without being accompanied by an LCA authorised officer. If the NSW DPI authorised officer is 'out of range', they must carry out the inspection and inform the appropriate level of management of their actions as soon as reasonably practical
- the NSW DPI authorised officer must determine if it is reasonably appropriate to conduct a formal weed inspection
- the NSW DPI authorised officer is to exercise the statutory powers and functions as far as reasonably practicable and in accordance with relevant workplace safety procedures and wear appropriate safety clothing and equipment
- the NSW DPI authorised officer must ensure necessary procedures and "fit for purpose" equipment and vehicles are used when conducting a weed inspection.

### 6.1 Equipment and documentation requirements

NSW DPI authorised officers are required to have the following pieces of equipment when conducting formal weed inspections:

- notepad or electronic tablet to make Biosecurity Information System (BIS) compliant records
- tape measures
- camera
- other equipment necessary for the task

- access to a vehicle fit for the task
- effective communication equipment including, as required by the situation and location, one or more of the following devices: mobile telephone, satellite telephone, UHF radio, personal Emergency Position Indicating Radio Beacon (EPIRB).

## **6.2 Risk assessment**

A risk assessment is to be conducted based on the information available prior to conducting a property inspection. The risk assessment should be used to guide appropriate management actions. The aim of conducting a risk assessment is to minimise or eliminate any illness, injury or other negative impacts occurring in relation to the property inspection and weed incursion. The following general steps must be taken when conducting a risk assessment:

- identify the hazards
- assess the degree of risk created by the hazards
- determine how to eliminate risks and if this is not reasonably practicable, determine appropriate measures to control risks, including improving existing controls
- ensure appropriate supervision
- ensure appropriate instruction, education and training is provided to people involved in conducting the inspection
- record any action or work procedure established to manage an identified risk. A strategic risk assessment template is available to record the risk assessment process (See RM8 file INT16/1302#3)
- check the implementation and success of the implemented control measures.

## **7. Conducting the inspection**

Property inspections are to be conducted in accordance with relevant procedures, safe work method statements, codes of practice and the Act. Collection, use and disclosure of information and field records are to be recorded in NSW DPI's BIS.

All records are to be maintained:

- if the authorised officer uses a notebook, this needs to be kept for two years
- records need to include notes on the movement of inspectors, including entry and exit times, who was spoken to, and any person seen during the property visit
- BIS records must be submitted appropriately.

Property inspection reports need to be completed following a formal weed inspection. A copy must be kept on file, provided to the relevant LCA and, if the inspection was carried out on private property or involved an owner, provided to the owner.

### **7.1 General requirements**

Wear or carry clothing and PPE suitable for the terrain, weather, and distances being covered. At a minimum a person conducting a property inspection should wear the following clothing items:

- hat, sunglasses and sunscreen or long-sleeved clothing
- high visibility vest or other clothing
- protective gloves if deemed appropriate
- appropriate footwear.

## **7.2 Vehicle hygiene**

Weeds are easily spread from property to property by vehicles and other machinery. To prevent spreading weeds, authorised officers have a general biosecurity duty to keep their vehicle free of contaminants by:

- ensuring as far as is reasonably practicable that the work vehicle is free of plant material before entering a property
- avoiding driving through weedy areas during inspections
- checking clothing, footwear and vehicle (including floor mats) on the completion of each inspection. Plant material found in these items should be removed and appropriately disposed of in order to mitigate the biosecurity risk.

## **7.3 Entry to premises**

The authorised officer may enter the premises at a reasonable time. However, an authorised officer is not empowered to enter any part of premises used only for residential purposes without the permission of the occupier or the authority of a search warrant. Before seeking the authority of a search warrant, an authorised officer must gain approval from their Director within Biosecurity & Food Safety.

## **8. Types of formal weed inspections**

### **8.1 Inspection on a private property, including home gardens**

When inspections are scheduled, arrange a reasonable time for the authorised officer and the owner/ occupier of the property. Whenever possible, the owner /occupier of the property should be present for the property inspection. For unannounced inspections, the authorised officer must make themselves known to the owner. If the owner/ occupier is unavailable, the authorised officer should leave a business card advising that they will contact the owner / occupier by telephone to make arrangements for an inspection on another date.

Whilst conducting an inspection, ensure all gates which were closed are closed after passing through and report any damages.

If the owner/ occupier is present, the authorised officer should offer the option for them to observe the inspection. At the completion of the inspection the authorised officer should provide the occupier with a copy of the property inspection report, discuss findings and provide guidance if action is required for weed management. If a prohibited matter weed is identified, advise the owner/occupier that the weed is prohibited matter and of the urgency to take action as recommended by the authorised officer. Advice should be given on the owner/occupier's general biosecurity duty and the biosecurity risks associated with the weed.

### **8.2 Plant nurseries, garage sales, public market, and fetes**

When conducting a property inspection at a public market, fete or similar event, the authorised officer should endeavour to determine who the person in charge is and explain the statutory requirements for any plants of concern and the biosecurity risks associated with the species. Determine the source of the origin of the weed through questioning the person in charge. Authorised officers must report the findings to the relevant LCA where the source property is located so they can carry out a property inspection. If the LCA authorised officer is unable to conduct an inspection at the alleged source property, then the NSW DPI authorised officer should initiate an inspection at the source property.

### **8.3 On the side of the road**

- ensure vehicle is as far off the road as practical, turn on vehicle's hazard lights if appropriate

- put on a high visibility vest
- if required documentation and equipment is not available to conduct inspection, take sufficient notes in a notebook to allow for adequate completion of the report once back in the office.

## 9. Formal Identification

A NSW DPI authorised officer must reasonably determine which weed species they are inspecting. If the NSW DPI authorised officer does not regularly work with weeds but suspects a new weed incursion, they can consult with the Invasive Plants & Animals Hotline (1800 680 244) to assist with identification.

If the biosecurity matter needs to be collected and transported for further testing, refer to relevant procedures.

## 10. Post Inspection

Following a property inspection, the NSW DPI authorised officer who carried out the inspection needs to complete the BIS record and provide a property inspection report to the owner/ occupier of the land. The report needs to contain the following:

- title 'Property Inspection Report'
- occupier's name, address, property identification
- date of inspection
- scientific name and common name of biosecurity matter
- the location and level of infestation
- the biosecurity impact and the biosecurity risk posed or likely to be posed by the biosecurity matter
- suggested management measures for each type of biosecurity matter detected during the property inspection
- notes on where more information can be found
- photographs if deemed necessary
- authorised officer's name, address and contact details
- name and signature of authorised officer
- date on which reinspection will occur
- confirmation regarding whether NSW DPI or the LCA will conduct the reinspection work.

Refer to the NSW DPI Weeds Metadata Standard when collecting information.

### 10.1 Follow up Actions

When a NSW DPI authorised officer has finished a formal weed inspection, the final report and responsibility for it are to be given back to the relevant LCA. The process of returning the responsibility back to the LCA authorised officer will be circumstantial and will need to be assessed by NSW DPI.

If the formal inspection conducted by NSW DPI was a one-off inspection such as assisting when LCA are short staffed, then NSW DPI must provide the report and return the responsibility to the LCA authorised officer.

If the formal inspection was conducted by NSW DPI as a result of responding to a complaint in regards to an LCA, then NSW DPI will need to re-negotiate with the relevant LCA.

It is generally not the responsibility of NSW DPI to take action against an occupier/ owner of land in relation to weed infestations. Once the property inspection has been returned to the relevant

LCA, the relevant LCA will be responsible for follow-up inspections and the necessary use of the relevant tools of the Act such as biosecurity directions and biosecurity undertakings.

### 11. Definitions and Acronyms

BIS	Biosecurity Information System
NSW DPI	NSW Department of Primary Industries
LLS	Local Land Services
LCA	Local Control Authority

### 12. Documentation

Policy – Weed Management

Policy - Biosecurity collection, use and disclosure of information

Procedure - Biosecurity collection, use and disclosure of

Policy - Records Management (IND-I-177)

Policy - Information Security (IND-I-197)

Policy - Classified Information (IND-I-196)

Policy - Government Information (Public Access) (IND-I-178)

### 13. Records

Not applicable.

### 14. Revision History

Version	Date issued	Notes	By
1.0	01/07/2017	New policy developed in response to the <i>Biosecurity Act 2015</i> .	Invasive Species Officer

### 15. Contact

NSW DPI Invasive Species Officer

(02) 4824 3737