

BIOSECURITY ACT 2015

Discussion Paper: Grapevine Phylloxera

December 2015

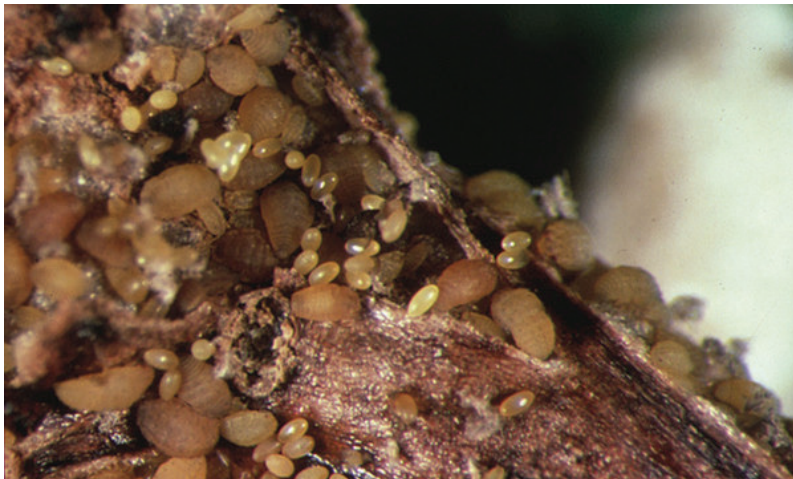


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Comments on this paper close on 12 February 2016

Email your comments on to: submissions.biosecuritylegislation@dpi.nsw.gov.au

Post your comments to: Biosecurity Act 2015
NSW Department of Primary Industries
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For more information

See: www.dpi.nsw.gov.au/biosecurityact

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (December 2015). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

Summary

The *Biosecurity Act 2015* (Biosecurity Act) will repeal the *Plant Diseases Act 1924*, which provides the regulatory controls and powers to manage Grapevine phylloxera (phylloxera) in NSW.

Having considered existing management arrangements and risks associated with phylloxera, it is proposed to implement similar measures under the Biosecurity Act utilising a range of tools including **Prohibited Matter**, a **Biosecurity Zone** and the **General Biosecurity Duty**.

Background

What is the problem?

Phylloxera is a very small yellow aphid-like insect that infests the roots of grapevines and occasionally causes distinctive galls on grapevine leaves, severely impacting the productivity of the vineyard. Once a grapevine or the surrounding soil is infested there is no effective treatment available. The only management option for grape growing is to remove infested grapevines and re-plant with vines grafted onto phylloxera tolerant rootstock.

In NSW phylloxera is known to be present in two areas; around the towns of Albury and Corowa and the Greater Sydney Region. Apart from the two phylloxera infested areas in NSW and the infested areas in Victoria, the rest of Australia remains free of this pest.

Why is it important?

New South Wales grape production is worth over \$170 million a year¹ (before processing). Around 80% of this value is from wine grape production, with the remainder made up of table grapes and grapes for dried fruit². NSW is Australia's second largest wine producing state with NSW vineyards producing close to 450,000 tonnes of wine grapes in 2014³, which in turn produced over 380 million litres of wine⁴. The processing of grapes into wine significantly increases the value of the NSW viticulture industry with NSW accounting for approximately \$1.6 billion of Australia's \$5 billion wine industry⁵. Of this amount over \$460 million is attributed to exports, which equals approximately one quarter of Australia's total wine exports⁶.

What is the outcome we are seeking?

The desired outcome is to prevent the introduction of the pest from other states and known infested areas in NSW into areas of NSW free of phylloxera (Phylloxera exclusion zones) whilst facilitating market access for affected producers.

Current management arrangements

In NSW, phylloxera is currently controlled and managed through a number of proclamations and permits made under the *Plant Diseases Act 1924* (PD Act). These instruments:

- Require the notification of the presence of phylloxera.

¹ Australian Bureau of Statistics, Catalogue number 75030: Value of Agricultural Commodities Produced, Australia 2013-14

² Australian Bureau of Statistics, Catalogue number ABS 71210: Agricultural Commodities Australia 2013-14

³ Australian Bureau of Statistics, Australian agricultural exports 2013-14

⁴ Australian Bureau of Statistics, NSW agricultural exports 2013-14

⁵ Australian Grape and Wine Authority, Winefacts: Gross wine production 2014

⁶ NSW Wine, <http://www.nswwine.com.au/pages/Things-you-should-know-about-NSW-wine.html>

- Define NSW Phylloxera Exclusion Zone, NSW Phylloxera Infested Zones, Interstate Phylloxera Infested Zone, Interstate Phylloxera Risk Zone and Interstate Exclusion Zones.
- Regulate movement into and within NSW of anything infested with phylloxera, machinery or equipment that has been used in a vineyard, soil that has been in contact with any plant material of the genus *Vitis* in the previous 5 years, or anything at risk of spreading Phylloxera (such as garden organics). They also regulate the movement of any part of the plant genus *Vitis* from all shoots, leaves, canes and other plant residue and soil, excluding packaged dried fruit, or fruit processed into juice or wine.

There are two [Interstate Certification Assurance](#) (ICA) arrangements (ICA-33 *Movement of Wine Grapes* and ICA-37 *Hot water Treatment of Grapevines*) in place to provide for self-certification by accredited businesses for the movement of their products to inter and intrastate markets. Government also provides Plant Health Certification for plant and machinery inter and intrastate movement. There is one Certification Assurance (CA) arrangement (CA-05) in place to cover the certification of host plant material destined for recycling or waste within NSW.

Proposed management under the NSW Biosecurity Act

Prohibited Matter

Phylloxera is listed as **Prohibited matter** in Schedule 2 to the Biosecurity Act for all areas of the State excluding the Albury/Corowa Phylloxera Infested Zone and the Sydney Basin Phylloxera Infested Zone (which are defined by local government areas in the Act).

Prohibited matter is tightly regulated, and it is an offence to deal with it in any way other than under the most limited and controlled circumstances (e.g., research permits). A legal duty to notify also applies where prohibited matter is present or suspected to be present. Significant penalties apply for prohibited matter offences.

If an authorised officer knows or suspects that there is an infestation of phylloxera on a property in the area where it is prohibited matter, he or she may accept a **Biosecurity Undertaking** from the owner or person in charge (and adjoining property holders) or issue a **Biosecurity Direction** to the person in charge (and adjoining property holders). A biosecurity undertaking or biosecurity direction will detail the actions and requirements that must be undertaken with respect to the infestation.

Other measures may also need to be implemented such as a **Control Order** or **Emergency Order**. Any such order would be designed to isolate, prevent the spread and eliminate the biosecurity risks posed by the presence of phylloxera in the relevant area.

Biosecurity Zone

It is also proposed to regulate the movement of potential carriers of phylloxera into NSW and within NSW through the establishment of a **Phylloxera Biosecurity Zone**. Potential carriers of phylloxera include machinery or equipment that has been used in a vineyard, soil that has been in contact with any plant material of the genus *Vitis* in the previous 5 years, plant material and residue, or any other thing at risk of spreading phylloxera (such as garden organics).

The Phylloxera Biosecurity Zone will:

- encompass the entire state, including both a Phylloxera Exclusion Zone and two Phylloxera Infested Zones within NSW.
- regulate the movement of carriers coming into NSW from Interstate Phylloxera Infested Zones, Interstate Phylloxera Risk Zones, and Interstate Phylloxera Exclusion Zones.

- regulate the movement of carriers out of and between the areas where phylloxera is known to be present in NSW, including the Albury/Corowa Phylloxera Infested Zone and the Sydney Basin Phylloxera Infested Zone (see Attachment A for a description of these Zones).

It is largely proposed that the restrictions and conditions of movement between zones will be the same as the current movement requirements.

The Biosecurity Act also includes provisions for Biosecurity Certification and industry self-certification arrangements. Therefore, **Biosecurity Certificates** and **Certification Assurance arrangements** would continue to be available under the Biosecurity Act.

General Biosecurity Duty

In addition to the regulatory measures and biosecurity zones proposed above, the **General Biosecurity Duty** (GBD) will also apply. The GBD requires that anyone who deals with phylloxera or carrier of phylloxera and who knows or ought to know of the biosecurity risks associated with that dealing must take measures to prevent, minimise or eliminate those risks as far as is reasonably practicable.

For example, if a vineyard within the biosecurity zone is infested with phylloxera the property owner should ensure that used farm machinery is clean and free of soil and grapevine plant material before leaving the property to minimise the risk of spreading the pest to another property.

How you can discharge your GBD may be outlined in Industry Standards, Codes of Practice, guidelines or through other advisory or education material. For example, the [Biosecurity Manual for the Viticulture Industry](#) could also assist with informing people how to discharge their duty.

The Biosecurity Act includes various offences for failing to discharge the GBD.

What do you think?

We value your comments on how we can improve our biosecurity system and look forward to receiving your input into this important process.

Please complete the following survey on 'Grapevine Phylloxera' at:
<https://www.surveymonkey.com/r/grapevinephylloxera>.

Alternatively, submit your feedback **by Friday, 12 February 2016** via [email](#) or post to:

Biosecurity Act 2015
NSW Department of Primary Industries
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For more information about the *Biosecurity Act 2015* and regulatory framework, please visit www.dpi.nsw.gov.au/biosecurityact.

Attachment A

Phylloxera Biosecurity Zone - All of NSW

Defined areas within the Phylloxera Biosecurity Zone:

1. *NSW Phylloxera Exclusion Zone*

All areas of NSW not listed in 2 and 3 below.

2. *Albury/Corowa Phylloxera Infested Zone*

Albury, Cowra (that part within the County of Hume), Greater Hume (excluding the former local government areas of Calcairn and Holbrook).

3. *Sydney Basin Phylloxera Infested Zone*

Ashfield, Auburn Bankstown, Baulkham Hills, Blacktown, Botany Bay, Burwood, Camden, Campbelltown, Canada Bay, Canterbury, Fairfield, Hawkesbury (within the County of Cumberland), Holroyd, Hornsby, Hunters Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichardt, Liverpool, Manly, Marrickville, Mosman, North Sydney, Parramatta, Penrith (other than the portion west of the Nepean River), Pittwater, Randwick, Rockdale, Ryde, Strathfield, Sutherland Shire, Sydney, The Hills Shire, Warringah, Waverley, Willoughby, Wollondilly (portion that is within the counties of Cumberland and Camden), Wollongong, Woollahra.