Noxious Weed and Pest Animal Management: Your Legal Roles and Responsibilities

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Introduction

Noxious weeds and pest animals affect the entire Victorian community. Management of these species is an essential precursor to achieving outcomes related to improving Victoria's productivity, competitiveness, sustainability and natural environment.

Roles and Responsibilities

Everyone has a role to play in the management of noxious weeds and pest animals.

**Australian Government:** The Australian government's role in managing invasive plants and animals is mainly in relation to national pre-border and border biosecurity, with a co-ordination and leadership role for achieving national biosecurity outcomes.

**State and Territory Governments:** The State and Territory governments are primarily responsible for managing the risks of invasive species that are already present within their respective jurisdictions.

**Victorian Government:** The Victorian government is responsible for administering Victoria's primary legislation for invasive plants and animals, the *Catchment and Land Protection Act 1994* (CaLP Act), setting statewide strategic policy for invasive species and enforcing the provisions of the CaLP Act. The State government also has responsibilities for the management of invasive species as a land manager under the CaLP Act and other relevant laws. It is responsible for taking all reasonable steps to eradicate State prohibited weeds (such as water hyacinth, alligator weed and perennial ragweed) from all land in the state. It is also responsible for taking all reasonable steps to control restricted pest animals (all those other than established pest animals) on any land in the state.

The Victorian government's roles and responsibilities for managing invasive species are primarily delivered by the Department of Economic Development, Jobs Transport and Resources (DEDJTR) with the management of parks and reserves directed through Parks Victoria.

The State government is supported in the implementation of the CaLP Act by the Victorian Catchment Management Council (VCMC) and Natural Resource and Catchment Authorities (NRCAs). The VCMC has a statutory function of an advisory nature while the CMAs have statutory functions to co-ordinate and implement invasive species activities at a regional level and advise the Minister for Environment and Climate Change on any matter referred to it by that Minister, including advice on any proposal to declare or revoke a noxious weed.
**Local Government:** Local governments have responsibilities to manage noxious weeds and established pest animals and protect land and water resources on land they manage.

**Land Owners and Land Occupiers:** Finally, all land owners and land occupiers (public and private) are responsible for managing noxious weeds and established pest animals on their land under the CaLP Act and any local laws.

**Key points for all land owners and land occupiers about noxious weed and pest animal management**

Under s 20 of the CaLP Act, all land owners, including the Crown, public authorities and licensees of Crown lands, must, in relation to their land, take all reasonable steps to:

- avoid causing or contributing to land degradation which causes or may cause damage to land of another land owner;
- eradicate regionally prohibited weeds;
- prevent the growth and spread of regionally controlled weeds on their land;
- prevent the spread of, and as far as possible, eradicate established pest animals.

In the case of non-compliance with s 20 of the CaLP Act, the government may serve a Directions Notice and/or Land Management Notice on a land owner outlining measures that must be taken for the control or eradication of noxious species on their land. Not complying with the conditions of a Directions Notice or Land Management Notice is an offence and penalties may apply.

The CaLP Act also contains provisions to prevent the spread of declared noxious weeds, through regulating the purchase, sale, possession for the purposes of sale, display, propagation or transport of these species into or within Victoria. Under the CaLP Act it is furthermore prohibited to bring into Victoria, keep, sell or release declared pest animals without an authority (permit).

In summary, it is an offence to:

- sell or trade any restricted weeds;
- remove or sell soil, sand, stone, gravel, fodder or grain likely to contain any part of a noxious weed without a permit. A person who contravenes any of these prohibitions may be directed to remove the noxious weed from any infested goods (animal, plants, vehicle, soil, sand, gravel and stone) or destroy them or restrict the movement if it is likely to spread weeds;
- buy, sell, possess for sale, bring into the State or transport within the State without a permit noxious weeds, seeds of noxious weeds or any part of a noxious weed capable of growing;
- sell or offer for hire, without a permit from DEDJTR, any machinery that is for primary production that contains seeds of noxious weeds or other parts of noxious weeds that are capable of growing;
- sell an animal that is carrying the seeds of a noxious weed without a permit from DEDJTR, unless it is a farm animal being sold directly to a meat processing facility within the meaning of the *Meat Industry Act 1993*;
- deposit on land, without a permit from DEDJTR, a noxious weed or a part of a noxious weed that is capable of germinating;
- import, keep, sell or release any pest animal in Victoria without a valid permit.
- fail to comply with a Directions Notice
- fail to comply with a Land Management Notice

**Penalties for offences under the CaLP Act**

Land owners should be aware that the maximum penalty for a single offence involving responsibilities for the management of noxious weeds is approximately $30,000 in 2012/13. For a single offence of importing,
keeping, releasing or selling a prohibited pest animal, the maximum penalty is approximately $60,000 in 2012/13.

**Catchment and Land Protection Regulations 2002**
There are also regulations under the CaLP Act which further guide the management of invasive pests. The *CaLP Regulations 2002* specify the four control measures that can be included in a Directions Notice for each species of declared noxious weed. The four measures are: application of herbicide; cultivation of the soil; physical removal; and mulching. The regulations also stipulate how many rabbits a person may keep without a permit. The *CaLP Regulations 2002* also specify the two prescribed measures for the eradication or control of European Rabbits being ripping and sealing all entrances to the warren. The CaLP Regulations will sunset on 24 September 2012 and landowners should check for information on any changes to the Regulations after this date.

**Relevant laws, guidelines and Codes**

The following laws, guidelines and Codes are relevant to the management of invasive species in Victoria. Click on the respective link for further information.

- **Aboriginal Heritage Act 2006**
 Limits control or management activities in areas of cultural heritage sensitivity. This is particularly relevant in the case of undertaking control measures which significantly disturb the soil, for example, the ripping of rabbit warrens to a depth greater than 60 centimetres.

- **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**
 Sets out controls for the use of chemicals and poisons.

- **Biological Control Act 1986**
 Sets out provisions for the release of agent organisms in order to control target organisms.

- **Catchment and Land Protection Act 1994**
 Provides the primary regulatory framework for the integrated management and protection of catchments through community participation in the management of land and water resources and provides a system of controls on noxious weeds and pest animals.

- **Conservation, Forests and Lands Act 1987**
 Provides a framework for a land management system and to make necessary administrative, financial and enforcement provisions.

- **Crown Land (Reserves) Act 1978**
 Provides for reservation of Crown land for a variety of public purposes, the appointment of committees of management to manage those reserves and for leasing and licensing of reserves.

- **Environment Protection Act 1970**
 Sets out a duty of care not to pollute air and waterways (for example when using herbicides or pesticides).

- **Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)**
 Provides the legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places (matters of national environmental significance).

- **Fences Act 1968**
 Sets out special provisions relating to vermin proof fences.

- **Firearms Act 1996**
 Sets out requirements and conditions on the use of fire arms for the control of invasive animals.

- **Fisheries Act 1995**
 Provides the legislative framework for the regulation, management and conservation of Victorian fisheries including aquatic habitats. Under the Fisheries Act an aquatic species may be declared as noxious.

- **Flora and Fauna Guarantee Act 1988**
 This Act enables and promotes the conservation of Victoria's native flora and fauna and sets out procedures which can be used for the conservation, management or control of flora and fauna. A species
cannot be declared as noxious under the CaLP Act if it is listed as threatened under the Flora and Fauna Guarantee Act.

- **Impounding of Livestock Act 1994**
  This Act outlines powers of authorised persons to impound trespassing, wandering or abandoned livestock. This Act should be considered when dealing with established pest animals that could be considered to be trespassing, wandering or abandoned (for example feral or wild pigs and goats).

- **Land Act 1958**
  Land owners who hold a lease, licence or permit for agricultural or non-agricultural land uses on a section of Crown land under this Act are responsible for noxious weed and pest animal management on that land. This Act also outlines the rules for property boundaries around some waterways. This can impact who has responsibility for invasive species management in riparian zones.

- **Local Government Act 1989**
  Allows local governments to develop local laws relating to noxious weed and pest animal management.

- **Meat Industry Act 1993**
  Provides the definition of meat processing facility.

- **National Parks Act 1975**
  Outlines the requirements for declaration and management of National Parks and some other types of parks. The CaLP Act stipulates that the Chief Executive Officer of Parks Victoria is the land owner responsible for noxious weed and pest animal management in any parks listed in Schedule 2 of the National Parks Act.

- **Occupational Health and Safety Act 2004**
  Sets out requirements to secure the health, safety and welfare of employers, employees and contractors, to eliminate sources of risks and to ensure that members of the public are not put at risk.

- **Parks Victoria Act 1988**
  Establishes Parks Victoria as a body corporate which does not represent the Crown but whose Chief Executive Officer has park management responsibilities as the Director of National Parks under the National Parks Act 1975. These responsibilities include the management of noxious weed and pest animal in parks managed by Parks Victoria.

- **Planning and Environment Act 1987**
  Establishes a framework for planning the use, development and protection of land in Victoria, including the removal, destruction or lopping of trees and the removal of vegetation or topsoil as a result of noxious weed and pest animal control works.

- **Prevention of Cruelty to Animals Act 1986**
  Makes it an offence to intentionally administer to an animal, or lay a bait for the animal containing, poison or other harmful substance other than in accordance with the CaLP Act, Wildlife Act 1975, or Drugs, Poisons and Controlled Substances Act 1982.

- **Road Management Act 2004**
  The CaLP Act stipulates that the Roads Corporation being VicRoads is the land owner responsible for noxious weed and pest management on freeways and arterial roads within the meaning of the Road Management Act 2004. Consent of the coordinating road authority may be required before undertaking any works to control invasive species on roadsides.

- **Road Safety Act 1986**
  Provides requirements for safe, equitable and efficient road use and include the need for traffic management plans, giving appropriate warnings to road users, and engaging appropriately trained and qualified persons.

- **Sale of Land Act 1962**
  A vendor selling a parcel of land must give the purchaser a statement outlining any existing conditions on the land (such as a Land Management Notice).

- **Wildlife Act 1975**
  Has provisions that allow a permit or authorisation to be granted to a person to take or destroy, buy, sell, acquire, receive, dispose of, keep, possess, control, breed, process or display wildlife. Wildlife can be declared established pest animals under the CaLP Act.
Legislation and the farmer

Key questions for farmers about noxious weeds and pest animal management arising from the legislation

Consider the following questions. If you are unsure of the answers to these questions, look through the table following. For more information, phone DEDJTR Customer Service Centre on 136 186.

- What type, if any, of noxious weeds or established pest animals do you have on your property?
- Do you have regionally prohibited weeds on your property?
- If you have regionally prohibited weeds on your property, are you taking reasonable steps to eradicate them?
- Do you have regionally controlled weeds on your property?
- If you have regionally controlled weeds on your property, are you taking reasonable steps to prevent their growth and spread?
- Are you carrying out any activities that might contribute to the spread of noxious weeds such as taking equipment onto roads, selling produce, selling animals or equipment?
- Do you have any established pest animals on your property?
- If so, are you taking measures to prevent the spread of, and as far as possible, eradicate them?
- Have you had a Directions Notice, Land Management Notice or Priority Area Notice served on you or your land in relation to any noxious weeds or established pest animals on your land, and if so, are you taking all reasonable steps to eradicate regionally prohibited weeds, prevent the growth and spread of regionally controlled weeds or prevent the spread of and as far as possible eradicate established pest animals?

<table>
<thead>
<tr>
<th>Farm activity or situation</th>
<th>On-farm obligations or implications</th>
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<tbody>
<tr>
<td>Management of noxious weeds</td>
<td>All land owners have obligations under the CaLP Act in relation to declared noxious weeds. A noxious weed may be an agricultural and/or an environmental weed. There are four categories of noxious weeds defined under the CaLP Act: State prohibited weeds Regionally prohibited weeds Regionally controlled weeds Restricted weeds A Directions Notice or a Land Management Notice (LMN) is the most commonly used regulatory mechanism to ensure noxious weeds are controlled. Noxious weed classifications can be found at: <a href="http://www.gazette.vic.gov.au/">http://www.gazette.vic.gov.au/</a></td>
</tr>
<tr>
<td>Controlling regionally prohibited weeds</td>
<td>Regionally prohibited weeds 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. It is your responsibility to take all reasonable steps to eradicate regionally prohibited weeds on your property. If you fail to do so, you may be served with a Directions Notice or Land Management Notice (LMN). The Directions Notice or LMN will direct you to take certain actions to control weeds on your property. If you fail to comply with the Directions Notice or LMN you may be liable for a penalty under the CaLP Act.</td>
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<tr>
<td><strong>Controlling regionally controlled weeds</strong></td>
<td>Regionally controlled weeds occur in particular regions, are capable of spreading further and should be prevented from doing so. Continuing control measures are required to prevent their spread. It is your responsibility to take all reasonable steps to prevent the growth and spread of regionally controlled weeds. If you fail in your obligations regarding regionally controlled weeds you may be served with a Directions Notice or LMN. The Directions Notice or LMN will direct you to take certain actions to control weeds on your property. If you fail to comply with the Directions Notice or LMN you may be liable for a penalty under the CaLP Act.</td>
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<tr>
<td><strong>Controlling State prohibited weeds</strong></td>
<td>State prohibited weeds either do not occur in Victoria, or occur in Victoria but it is reasonable to expect that they can be eradicated from Victoria. It is the responsibility of the Victorian Government to take all reasonable steps to eradicate State prohibited weeds on all land in Victoria. Where eradication cannot be undertaken immediately, an Authorised Officer may direct a land owner to prevent the growth and spread of State prohibited weeds for a particular time period. It is an offence to fail to comply with any such direction.</td>
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<td><strong>Managing restricted weeds</strong></td>
<td>These plants would pose an unacceptable risk to other States and Territories if they were sold or traded in Victoria. Many species, including some species of willows, are declared restricted. It is an offence to sell or trade any restricted weeds.</td>
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<td><strong>Spreading noxious weeds</strong></td>
<td>Unless you have a permit from DEDJT you cannot buy, sell, possess for sale, display, propagate, bring into the State or transport within the State: noxious weeds seeds of noxious weeds any part of a noxious weed capable of growing.</td>
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<tr>
<td><strong>Selling soil sand or gravel</strong></td>
<td>Without a permit from DEDJTR you cannot remove or sell any soil, sand or 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.</td>
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<tr>
<td><strong>Selling fodder or grain</strong></td>
<td>Without a permit from DEDJTR you cannot remove or sell any fodder or grain, which contains the seeds or any part of a noxious weed capable of growing. The movement of grain, fodder and equipment can be restricted by DEDJTR if it is likely to spread weeds.</td>
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<td><strong>Selling machinery</strong></td>
<td>If you wish to sell or hire or offer for hire any machinery for primary production, it must be free from noxious weeds, their seeds, or any part of the weed that is capable of growing. If you need to sell or hire or offer to hire any machinery for primary production which contains noxious weeds, you must obtain a permit.</td>
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<tr>
<td><strong>Selling animals</strong></td>
<td>You cannot sell an animal that is carrying the seeds of a noxious weed without a permit from DEDJTR unless it is a farm animal being sold directly to a meat processing facility within the meaning of the Meat Industry Act 1993.</td>
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<td><strong>Depositing noxious weeds</strong></td>
<td>Without a permit from DEDJTR you cannot deposit on land a noxious weed or a part of a noxious weed that is capable of germinating.</td>
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<td><strong>Direction to remove noxious weeds</strong></td>
<td>Authorised Officers may direct you to remove noxious weeds from infested goods (e.g. hay) or destroy noxious weeds within a specific time frame. It is an offence to fail to comply with such a direction.</td>
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<td><strong>Direction to</strong></td>
<td>Authorised Officers may direct you to restrict the movement of grain, fodder,</td>
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<td>Farm activity or situation</td>
<td>On-farm obligations or implications</td>
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<td>restrict movement</td>
<td>equipment or animals that they consider likely to spread noxious weeds. It is an offence to fail to comply with such a direction.</td>
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| Pest animal management    | Pest animals are, or have the potential to be, a serious threat to primary production, Crown land, the environment or community health in Victoria. There are four categories of pest animals defined under the CaLP Act:  
Prohibited pest animals  
Controlled pest animals  
Regulated pest animals  
Established pest animals  
The classification of pest animals has been determined as to the threat of a particular species on primary production, the environment or community health as well as their potential for establishment in the wild. It is an offence to import, keep, sell or release any pest animals in Victoria without a valid permit.  
Pest animal classifications can be found at: [http://www.gazette.vic.gov.au/](http://www.gazette.vic.gov.au/) |
| Managing prohibited pest animals | Because of the significant threat to biosecurity, importing, keeping, selling or releasing prohibited pest animals is not allowed in Victoria. Examples include racoons, stoats, weasels and cane rats.  
It is the responsibility of the Victorian state government to take all reasonable steps to control restricted pest animals (including prohibited pest animals) on all land in the state. |
| Managing controlled pest animals | Controlled pest animals are those that can only be kept in high security collections approved by the Minister. The keeping of controlled pest animals in Victoria is limited to specific purposes including zoos and research institutions. Examples include elephants, meerkats, spider monkeys, boa constrictors and American alligators.  
It is the responsibility of the Victorian government to take all reasonable steps to control restricted pest animals (including controlled pest animals) on all land in the state.  
If you wish to import, keep or sell a controlled pest animal you must obtain a permit from DEDJTR. |
| Managing regulated pest animals | Regulated pest animals may be kept for certain commercial purposes and can only be kept in collections or at premises approved by the Minister. Regulated pest animals include American bison, water buffalo and blackbuck antelope.  
It is the responsibility of the Victorian state government to take all reasonable steps to control restricted pest animals (including regulated pest animals) on all land in the state.  
If you wish to import, keep or sell a regulated pest animal you must obtain a permit from DEDJTR. |
| Managing established pest animals | Established pest animals should be controlled and their spread in the wild prevented. Examples include foxes and hares and feral or wild populations of dogs, rabbits, goats and pigs. The dingo is no longer an established pest animal as it is now listed as a threatened species under the Flora and Fauna Guarantee Act 1988. For more information on dingos, contact the Customer Service Centre on 136 186.  
It is your responsibility to take all reasonable steps to control and where possible eradicate established pest animals on your land. |
If you fail to do so, you may be served with a Directions Notice or LMN. The Directions Notice or LMN will direct you to take certain measures to control pest animals on your property. If you fail to comply with the Directions Notice or LMN you may be liable for a penalty under the CaLP Act.

### About the booklet

This booklet is one of a series of eight covering legal aspects of managing a farm:

- Biodiversity
- Chemical Management
- Introduction to Occupational Health and Safety
- Livestock Management
- Noxious Weed and Pest Animal Management
- Soil Management
- Waste Management
- Water Management

Each booklet provides a list of the relevant legislative Acts and explains the purpose of each Act.

They have been written for land owners and primary producers. Each booklet consists of the following sections:

**Key terms, acronyms and abbreviations** – An explanation of some of the language and terms used throughout the booklet.

**Introduction** – A summary of the intention of the legislation.

**Roles and responsibilities** – An explanation of roles played by national, state and local governments, their agencies and farmers.

**Relevant laws, guidelines and Codes** – The relevant Acts, guidelines and Codes covering farm management in Victoria.

**Legislation and the farmer** – A table of potential situations with an explanation of a farmer’s obligations or the implications under the relevant Acts in Victoria.

### Disclaimer

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For more information about DEDJTR go to [economicdevelopment.vic.gov.au](http://economicdevelopment.vic.gov.au) or phone the DEDJTR Customer Service Centre on 136186.