

## I'm from the government and I need your help! Addressing the weed challenge through engagement of Local Government and other stakeholders during the New South Wales weed declaration review

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**Summary** Stakeholder consultation can become a token exercise, particularly if it is a legislative requirement. New South Wales Department of Primary Industries (DPI) are primarily responsible for the *Noxious Weeds Act 1993* (the Act). This includes public consultation with key stakeholders such as Local Government, who are our partners in delivering operational, compliance and enforcement actions under the Act.

This paper illustrates how New South Wales DPI has moved beyond the traditional culture of public consultation encapsulated by the statement '*I'm from the Government and I'm here to help you*' to a more participatory approach. Weed legislation and existing statutory public consultation processes are discussed initially. Both of these necessarily guided the most recent weed declaration review; quite possibly one of the most complete declaration reviews since 1906. These processes were used to facilitate a common understanding and co-ownership of the declaration review process. The New South Wales Weed Risk Management (WRM) system was then used by both State and Local Government to assess the risk each species posed, as well as the feasibility of coordinated control.

The outcomes from the WRM assessments were considered by all stakeholders through an iterative consultative process. Previous capacity building with Local Government was one step integral to this, allowing these officers a high level of involvement in a previously, largely exclusive declaration process. The experience of a Local Government regional project officer/coordinator is recorded to mirror the experience of New South Wales DPI. The process of melding together state, regional and local priorities for declaration has also involved consultation between National weed coordinators, State Government departments, landowners/managers, community members and industry groups. The steps taken along this consultation journey are detailed, as are the reasons for the successful outcomes at its end.

**Keywords** Weed Risk Management, noxious, participatory governance, legislation, consultation.

### INTRODUCTION

Ronald Reagan, former President of the United States of America, in a speech in 1986, said that '*the nine most terrifying words in the English language are: "I'm from the government and I'm here to help"*' (Reagan 1986). Although these words have been parodied as an example of traditional 'top-down government engagement', many (largely unrecorded) examples of such engagement still exist, particularly with respect to statutory consultation about legislation. While there remains a place for the directive imposition of laws, there has been a call for new ways of thinking more recently, e.g. participatory governance/democracy (Keane 2009 and Shergold 2009), more aptly encapsulated by the statement, '*I'm from the government and I need your help*'. This paper examines how the New South Wales government has embraced this thinking and practice in undertaking consultation for the review of weed declarations under the *Noxious Weeds Act 1993*.

Stakeholder consultation is a statutory requirement of this Act, and of course much contemporary legislation. As the legislative leader of weed legislation in the state, it is vital that the New South Wales DPI engage with all stakeholders, but particularly Local Government, who are our partners in delivering operational, compliance and enforcement actions under the Act (Johnson and Charlton 2010 and Johnson *et al.* 2012).

The New South Wales government has a long history in enacting legislation to manage weeds; since the *Local Government Extension Act 1906* a significant number of weeds have been declared across the state, e.g. Bathurst burr (*Xanthium spinosum* L.), star thistle (*Centaurea calcitrapa* L.) and the former aggregate species known as blackberry (*Rubus fruticosus* L.) (Johnson 2013). While significant review of declared species occurred when the *Noxious Weeds Act* was first enacted in 1993 (P. Gray, personal communication), and again in 2005 after further amendments, the review

discussed in this paper sought to completely revise all noxious weed declarations in the state using the New South Wales WRM system (Johnson 2009a,b), quite possibly one of the most extensive and complete declaration revisions since 1906.

#### EXISTING STATUTORY PUBLIC CONSULTATION PROCEDURES

Section 9 of the Act details ‘public consultation procedures’, summarised as: the Minister responsible for the Act is to cause any proposed order under the Act to be subject to public consultation; that a notice of intention to make an order is to appear in a newspaper circulating within the area (or state); when and where the order is to be placed on public exhibition and how submissions are to be made; that a minimum of 21 days of public exhibition are needed; that the Minister is to consider any public submissions on the proposed order; and that the Minister is not required to undertake any further public consultation if the proposed order is changed as a result of the public consultation procedure.

In practice, the responsible department (New South Wales DPI) prepares the proposed order, advertises its content, receives and assesses informal and statutory (as per section 9 of the Act) submissions before recommending the order to the Minister or their delegated Departmental representative for enactment. Advice from a range of stakeholders is received during this process.

The subject of this paper is the declaration review undertaken for Noxious Weeds (Weed Control) Order 2014 of the *Noxious Weeds Act 1993*, made (enacted) on 26 February 2014.

#### PREPARATION OF, AND CONSULTATION FOR, WEED CONTROL ORDER 2014

Subsequent to various strategic reviews e.g. Downey and Johnson (2010), and a companion paper detailing the evolution of the New South Wales WRM system (Johnson 2009a,b), the development and implementation of a nationally accredited training module available to all stakeholders, particularly Local Government then occurred (Johnson and Charlton 2010). The training program has continued since this time. The processes undertaken by New South Wales DPI to assess the declarations of Class 1 (State Prohibited), Class 2 (Regionally Prohibited) and Class 3 (Regionally Controlled) noxious weeds have been summarised elsewhere (Johnson and Charlton 2010).

Because of the strategic importance of the Class 1, 2 and 3 species, these classes were reviewed by New South Wales DPI in 2009. In mid 2010, and subsequent to widespread training, New South Wales DPI invited Local Government to assess the remaining 78 Class

4 (Locally Controlled) noxious weeds which were declared on a variety of scales (local through regional). Assessments of state-wide declarations of Class 4 species were again conducted by New South Wales DPI. Around 5–22 other Class 4 species remained to be assessed in each Local Government area (Johnson and Charlton 2010). That Class 4 review, using the WRM system, was largely concluded by the end of 2010. During that time, Local Government consulted with members of their community including, but not limited to, residents, ratepayers, Local and other State Government representatives including Rural Lands and Catchment Management staff, service provider representatives and environmental groups. This ensured that the feedback they provided to New South Wales DPI best represented the desires of their communities. New South Wales DPI informally consulted with Local Government throughout the Class 4 review process, as well as with a number of stakeholders during the earlier review of Class 1, 2 and 3 species. Combined, these processes of consultation could be thought of as the first period of consultation.

#### ACTIVE ENGAGEMENT – THE ITERATIVE PARTICIPATORY CONSULTATION JOURNEY

The overall declaration process used was guided by extensive policy and procedure. This included, but was not limited to, policy on weed declarations (NSW DPI 2009) and the WRM procedure (Johnson 2009a,b), with various detailed summaries of the overall declaration process published, e.g. Johnson and Lisle (2009).

Having said this, there was no published ‘how to’ manual for a consultation task as large as the review undertaken for Weed Control Order 2014. Considering all of these factors, New South Wales DPI used an iterative process of participatory consultation, that is: ‘propose’ – subsequent to a WRM assessment, declarations thought to best suit the current and future needs of stakeholders were proposed in a draft order; ‘test’ – consultation (often informal) with relevant stakeholders to understand if the proposed declarations were suitable or not; and ‘refine’ – making necessary changes, whenever possible to reflect feedback from the prior ‘test’ stage. This process was conducted at least twice (see below), but often many more times, as necessary, until New South Wales DPI was satisfied that as many changes as could be made were made. This involved many of the following means: email contact/dialogue; phone calls; visits and presentations to regional weed meetings and state conferences; and face-to-face contact. Regional Project Officers (RPO’s) were used as conduits for much of the activity given that there are over 120 Local Government areas in the state with responsibility under the Act (Downey

and Johnson 2010), but contact was also made with many individual Local Government entities.

Importantly, such iterative processes commonly have an 'evaluate' stage. This crucial stage is current as Local Government implement the new declarations that were published in February 2014. Feedback from Local Government and other stakeholders will be used to propose future declaration changes. In a limited dataset so far analysed, the outcome of this second period of consultation resulted in around 90% mutual agreement between Local Government and New South Wales DPI.

**Informal and formal consultation** Subsequent to the second period of consultation outlined above, two rounds of further consultation occurred, both of which involved multiple stakeholders concurrently. The third informal period of consultation was used to confirm the previously made changes and to remove as many of the mistakes as possible. This third period involved an invitation to Local Government stakeholders to comment on a draft order and was sent in late 2012. Submissions were received as to the draft order's content well into the first quarter of 2013. Targeted consultation also occurred with 10–20 other stakeholders at this time, e.g. those represented by the Ministers Noxious Weeds Advisory Committee, which including Local Government comprises representatives of the: New South Wales Farmers; Nursery and Garden Industry; Nature Conservation Council; the general community; and Natural Resource Management and New South Wales Office of Environment and Heritage representatives. Select others included Weeds of National Significance coordinators and government representatives within the state and Australia.

This third period of consultation also involved subsequent further clarification with select Local Government officers, as needed. Again, all requests were considered, changes made where possible and the relatively small number of mistakes corrected. This process occurred throughout much of 2013.

Concluding the process, statutory public consultation on the amended order was conducted in late 2013. This was conducted as per Section 9 of the Act (as already outlined, but with more significant advertisement) and allowed all residents and organisations of/in the state the opportunity to comment, as well as anyone else. Submissions from this fourth period of consultation were assessed, necessary changes made and the draft order prepared for enactment in 2014. The resulting small number of responses received during this widely advertised (statutory) public consultation process gave New South Wales DPI confidence that the entire participatory process of consultation had been highly successful.

#### THE LOCAL GOVERNMENT PERSPECTIVE

As mentioned above, consultation with Local Government when revising a Weed Control Order on this scale was unprecedented. Due to its scale, it was a five year process beginning with a training program for Local Government weed officers and Regional Project Officers. The training was vital for the WRM system to be applied consistently state-wide.

For the sake of ease, the existing network of RPOs was used to disseminate information and requests to Local Government weed officers. This allowed for important communications to be targeted by the RPO directly to the Local Government weeds officers, rather than to a general Council mailbox. This led to faster council responses in an already protracted process. It also led to collaboration between Councils at a regional scale to secure regional declarations for priority weeds. By working together, these Councils were able to use 'group buying power' to influence weed declarations.

The WRM system was important, not just for a rigorous review of each species, but also for the involvement of Local Government weed officers. These officers are the people responsible for on-ground operation and enforcement of the Weed Control Order. It allowed a level of control and ownership of the review process at a management level not normally consulted until the end of the process. Weed officers felt that their input was valid and important; that their voices were heard.

The process was not without issues; a new process rarely is. The significant input required by Local Government weed officers, the lengthy process, and the compromises made by New South Wales DPI all contributed to some low levels of irritation at the time. There were also some issues with the informality of certain communications. However in hindsight, these communications meant there were many opportunities for explanations of particular decisions and this in turn has led to a favourable reception of Weed Control Order 2014 from Local Government.

#### DECLARATION CHANGES AND FUTURE WEED PROOFING NEW SOUTH WALES

Although the primary purpose of this paper was to highlight the successful participatory process of consultation undertaken for the declaration reviews contained in Weed Control Order 2014, and to highlight the Local Government experience, this paper provides a useful opportunity to highlight the scale of some the changes made during this process. Weed Control Order 2014 contains 3500+ declarations (when summary 'area' statements are broken down to their Local Government components). More than 60% of

these were altered in some way: this included new declarations (weeds listed for the first time); changed declarations (weeds listed in new areas and/or different classes); and nomenclature changes (relatively minor, but necessary as taxonomic distinctions change). This proportion did not include changes to ‘control measure’ wording which would significantly increase this proportion. Further, it does not contain the small number of removals of weeds from declaration in areas of, or from the whole state.

The scale of changes made were designed to be generational in magnitude, i.e. to largely future proof the state from current and emerging weed threats for the next generation (20–25 years), particularly in light of the multiple biosecurity challenges faced with: increased trade globalisation; population growth; the continued import of plant and animal material; and competing priorities for resources (NSW Government 2013). In doing so, this review places the New South Wales government on a well prepared base for the introduction of any new legislation, i.e. an overarching Biosecurity Act that seeks to manage multiple biosecurity concerns.

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