

# AERIAL AGRICULTURAL ASSOCIATION OF AUSTRALIA LTD.

ABN 13 002 501 886 • ACN 002 501 886



Native Vegetation Regulation Review  
Conservation Policy and Strategy Section  
Office of Environment and Heritage  
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## Introduction

The proposed new regulations provide an opportunity for the NSW government to address a number of shortcomings in the current regulations.

However, the proposed changes miss this opportunity and do not remedy a range of issues affecting the use of aerial application of pesticides, especially in the area of competing priorities between the native vegetation regime and the noxious weeds management regime.

## Key Issues

AAAA has identified the following shortcomings of the proposed regulatory changes:

### 1. Conflict between the objectives of Native Vegetation legislation and Noxious Weeds legislation

Landholders have a legal responsibility to control noxious weeds on their property – a responsibility that extends to Government in its management of weeds on Crown land such as national parks.

An effective – and sometimes the only practical and safe means – by which noxious weed control can be undertaken is by the aerial application of pesticides from either a helicopter or fixed wing aircraft.

This creates a conflict between two competing pieces of legislation that is not resolved by the current proposals.

Where a landholder (or the Government for that matter) engages a professional aerial applicator to control noxious weeds, there should be relief provided against the native vegetation legislation to ensure that appropriate control measures can be taken to effect the greater good for the environment – namely the control of noxious weeds.

It should be noted in this context that aerial applicators receive and maintain the highest standard of training of any pesticide applicators, are licenced by the NSW Government both at a business and individual pilot level, and in addition are required to holding qualifications and licences from the Commonwealth Civil Aviation Safety Authority.

The aerial application sector also has a range of accreditations and professional development opportunities that support the ongoing due diligence and development of the sector.

In addition, aerial application only takes place within a well structured, planned and risk managed environment where appropriate systems support sound decision-making and the protection of the environment.

## **2. Discrimination against aerial application as a means of effectively and safely controlling noxious weeds**

There appears to be a mindset driving the proposed changes that certain types of control activities identified in the legislation have potentially less impact than the safe and effective use of pesticides to control either invasive native species (Section 34 of the proposed regulations) or noxious weeds.

This is demonstrably false and actually works against best practice and reduced environmental impacts.

Landholders should be allowed to use whatever efficacious and safe means – including pesticide application from aircraft - available to control either noxious weeds or invasive native species, as long as that activity is conducted in compliance with the pesticide control-of-use legislation (NSW Pesticides Act 1999).

## **3. Difficulties arising from temporary damage to native vegetation from noxious weeds control activities**

In some notable cases issues have been raised against aerial applicators in NSW who have been attempting to comply with the competing demands of the native vegetation and noxious weeds regimes, especially where minor and temporary damage has occurred to some native species.

The proposed regulations make no provision to remedy this situation.

Similarly, the Pesticides Act 1999 is not particularly clear when damage caused to non-target species is temporary and where, after a relatively short period of time, no damage is discernible.

It would be an improvement if both the native vegetation regulations and the pesticide control of use regulations were amended so as to provide both clarity and a practical means of meeting the requirements of this competing legislation.

It would also be appropriate for this issue to be discussed with both the agricultural and application sectors and a more appropriate enforcement / compliance regime be established by OEH.

## **Recommendations**

1. The proposed regulations be amended to clarify that, where a pesticide application is taking place for the purposes of controlling noxious weeds, the application is exempt from native vegetation requirements.
2. The proposed regulations be amended to allow the control of invasive native vegetation by aerial application and the use of pesticides within the normal bounds of risk management.
3. The proposed regulation (and the Pesticides Act and regulations) be amended so that where damage to native vegetation (or any non-target species) is of a temporary nature and the native vegetation or other species recovers, there is no offence committed.
4. The Office of Environment and Heritage review its compliance and prosecution policy to ensure that where an applicator is working to achieve the outcomes required by the noxious weeds legislation, that no prosecution, penalty infringement notice or other compliance activity will be taken against that applicator.

## **Who is AAAA?**

The Aerial Agricultural Association of Australia (known as 'four As'), represents the professional aerial application industry, providing critical aviation services for agricultural production and emergency response. Our operations cover crop spraying, fertilizing, sowing, locust and mouse plague control, firebombing and oilspill management – to name a few.

The Association members account for over 90% of all aerial application in Australia.

The Association has been active since 1958 and provides a comprehensive mix of training, education, professional development, conference and accreditation

services to our members, as well as ensuring our elected representatives are kept up-to-date with our industry issues, problems and opportunities. We work closely with State and Federal agencies on a range of policy issues. Our website is at [www.aerialag.com.au](http://www.aerialag.com.au)

The Association has its national office based in Canberra and is governed by a Board of Directors with representation from States and pilots. The Board is in regular consultation with the CEO and application operators and meets formally on a regular basis.

AAAA's mission is to promote a sustainable aerial agricultural industry based on the professionalism of operators, pilots and staff and the pursuit of industry best practice.

### **Further Information**

For further information or discussion on any aspect of this submission, please do not hesitate to contact the CEO of AAAA, Mr Phil Hurst on 02 6241 2100.