NSW Legislative Assembly Hansard

NOXIOUS WEEDS AMENDMENT BILL

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Bill introduced and read a first time.

Second Reading

Mr KERRY HICKEY (Cessnock—Minister for Mineral Resources) [11.06 a.m.]: I move:

That this bill be now read a second time.

Weeds have a major impact on agricultural productivity and the environment in New South Wales. The Cooperative Research Centre for Australian Weed Management reports that weeds cost Australia in excess of $4 billion annually. New South Wales bears a proportionate share of this cost. In order to address the problems that noxious weeds present, a concerted effort is needed from all stakeholders. While the majority of landholders are vigilant and conscientious about weed management responsibilities, a proportion are not. The bill before the House today will allow landholders to better meet their land management obligations and protect their neighbours, the community and the environment from the damaging effects of noxious weeds. It creates a much-needed flexibility to accommodate weed management practices as they change over time. It also makes provision for improved regulatory powers to restrict the opportunity for new weeds to establish in New South Wales, and for authorities to be able to rapidly deal with weeds if they arrive.

The bill is the result of extensive consultation with the community, industry, local government and State Government organisations. The genesis of this bill was a comprehensive review of the Noxious Weeds Act 1993 conducted in 1998. That review group was made up of representatives from the Local Government Association, Shires Association, NSW Farmers' Association, Nature Conservation Council, rural land protections boards, Total Catchment Management, National Trust and Department of Land and Water Conservation. The initial review of the Noxious Weeds Act 1993 involved a thorough and open consultation process that resulted in over 100 submissions being received. The review group took due account of these responses in making its final recommendations. A number of concerns were raised, in particular relating to the responsibilities of public authorities, the precedent of noxious weeds legislation over other Acts, the use of weed management strategies to replace orders, joint owner/occupier responsibility, monitoring and reporting requirements as well as some minor issues.

The staff of the Department of Primary Industries have been diligent in consulting with their opposite numbers in other organisations to ensure that their concerns and needs have been considered. The review met three broad requirements. The first was a statutory requirement that the Noxious Weeds Act 1993 be reviewed as soon as possible after five years from the date of its assent, which was 4 May 1993. The second was to continue the New South Wales Government's ongoing program of red tape reduction and regulatory reform. The third was to fulfil the New South Wales Government's commitment to review legislation that may impact on competition under the Competition Principles Agreement.

In preparing this bill, the importance of ensuring that the amendments were consistent with the objectives of national weed management was also recognised. So, where possible, the bill is consistent with the nine core principles of State and Territory weeds legislation, as set out by the Australian Weeds Committee. Furthermore, the House should note that weeds regulation in other States is often incorporated into broader land management legislation. Where practicable, this bill has been developed to be consistent with the objectives, functions and powers of that legislation.

I will now turn to the findings of the review group. The final report identified several problems with the Act. Some of these problems included competition policy issues. In particular, there was a problem with the supply of materials and equipment by local control authorities. The inherent ability in the current Act for a local control authority to artificially subsidise the costs of these services is contrary to the competition policy. This issue has now been fully addressed in the Local Government Amendment (National Competition Policy Review) Act 2003. In response to the review group's concerns, the bill removes these provisions from the Act. A number of other amendments are also required to give effect to the review group's recommendations.

The existing methods for declaring noxious weeds and defining weed control requirements are quite inflexible. Put simply, they do not address contemporary land and weed management practices. The methods for controlling noxious weeds are limited, in most cases, to continuously suppressing and destroying weeds. However, contemporary land and weed management practices now mean that there are alternative ways in which noxious weeds can be effectively controlled. These techniques either address the cause of the weed problem or provide effective control using a range of techniques. For example, maintaining a dense pasture through improvement and grazing management can provide competition for weeds, reduce the level of infestation and reduce the opportunity for weeds to invade further.

Other methods can include revegetation, farm forestry and establishment and maintenance of biological control agents. These new methods avoid the need for continuous herbicide application, which can be expensive and lead to replacement

of the existing weed with just another weed. The other major advantage to these new land and weed management practices is that desirable competitive species are allowed to develop. To support this new approach and to better reflect the significance and danger that noxious weeds represent to pasture productivity and the environment, the bill replaces the existing categories of noxious weeds. New categories known as "control classes" have been created.

The Government is committed to involving the community in this new approach. That is why the bill ensures that weed control orders, other than emergency weed control orders, will be subject to public consultation. The Act makes no provision for this type of public consultation. Weed control orders will continue to be declared by ministerial order, as is currently the case. Other changes to the order-making provisions provide for increased flexibility in the management practices that can be used to control weeds. In some cases, particularly with common and widespread weeds, true, long-term weed control will only be achieved through changed land management practices.

As I noted earlier, special provision has been made in the bill for the making of emergency weed control orders. In addition, powers for local control authorities to deal with emerging noxious weeds have also been provided for. Emergency weed control orders will be effective for up to three months. In some situations, the threat of the spread of a weed incursion may warrant immediate action. As such, the Minister responsible will have the power to waive the public consultation requirements for the making of these orders, if necessary. The bill provides that special emergency powers may be used in relation to emergency weed control orders. This means that a local control authority is able to take emergency action to control noxious weed infestations where the circumstances justify such action.

Where practicable, local control authorities will be required to give notice to the owner or occupier before entering a property to carry out work. In accordance with the existing provisions in the Act, this notice will have to be in writing. However, in a situation where an incursion of a particularly virulent weed not previously present in the State is detected on land and contact cannot be made with either the owner or occupier of that land, the fact that notice has not been given will not prevent a local control authority entering the land to carry out work. The bill provides that the cost of such work will be recoverable by a local control authority from the owner or occupier of the land.

The bill also makes provision for the joint management of weeds by local control authorities. This will mean more effective weed management through joint arrangements between local control authorities and other persons or organisations. For example, under the current Act local control authorities have the power to inspect land for noxious weeds. Similarly, under the Rural Lands Protection Act 1998 rural lands protection boards have the power to inspect land for animal pests. The bill allows local control authorities and rural lands protection boards to enter into joint arrangements in respect of the inspection of land under the Noxious Weeds Act 1993. This will significantly increase efficiency between the agencies in terms of time and money.

The bill increases equity in weed management by giving landowners as well as occupiers responsibility for noxious weed management. Previously, it was just the occupier who was responsible for weed management on land. However, because weed invasion is recognised as a major contributor to land degradation, it is an issue that needs to be addressed at all levels. Some landowners shy away from their land management responsibilities by passing them on to other people, such as the tenants of their land. The bill ensures that landowners cannot totally ignore their land management responsibility to keep their land free from noxious weeds.

Another matter that the bill deals with is the provision of information about weeds and weed control activities by local control authorities to Government. Proper weed management is often frustrated by the lack of information on the presence and extent of noxious weed infestations and the actions being taken to control them. Without this information, it is extremely difficult to effectively plan weed management, allocate resources or to measure the success of weed control operations. The bill provides that local control authorities must collect and record this information and prepare reports about weed-related matters for the New South Wales Government, when requested to do so. This requirement is not onerous as local control authorities already collect this information to report for other purposes, such as preparing state of the environment reports.

The New South Wales Government provides more than $7 million in noxious weed grants annually to local control authorities to assist them with their functions under the Act. It is, therefore, reasonable to expect recipients to maintain these records. The Minister for Primary Industries provides these grants for noxious weed control. However, the current Act is unnecessarily restrictive in allowing these grants to be made to assist organisations in carrying out their obligations under the Act. The bill broadens this function to allow grants to be made to further the objects of the Act.

Local control authorities are the front line for weed management in New South Wales. If they fail to fulfil their obligations, the effects on productivity and the environment can extend well beyond the boundaries of their local control authority. Lack of action by one local control authority cannot be allowed to threaten the broader weed management programs being implemented in neighbouring areas. The bill makes provision for the Minister responsible to direct a local control authority to exercise its functions under the Act, and to exercise those functions where the local control authority does not comply with the direction. In order to exercise this power to its full extent, the bill provides that the Minister must first consult with the Minister for Local Government or other responsible Minister. This will ensure that this provision is used only in very limited circumstances and generally only after no other option is available. This provision is consistent with those given to the Minister for Primary Industries in part 14 of the Rural Lands Protection Act 1998 and to the Minister for Infrastructure and Planning in the Environmental Planning and Assessment Act 1979.

The bill also deals with the movement of weeds in seeds, fodder and turf on machinery and other equipment. This is a major source of the spread of noxious weeds. The bill provides an effective means of controlling this route of spread, in particular for those weeds which are not yet in New South Wales or which have limited distribution but which have a high potential impact. This is achieved in two ways. First, the weed control order declaring noxious weeds may, in the methods

for control and the obligations, specify such measures as need to be taken to prevent further spread. Secondly, the provisions of the Act have been strengthened to limit the spread of materials containing noxious weeds and the deliberate selling of noxious weeds or materials containing these weeds.

For example, alligator weed, although common in some parts of the State, occurs in only a very few small patches in the Wah Wah Irrigation District near Griffith. There is a very real possibility that this weed could be moved on agricultural and earthmoving machinery from its current sites into the rest of the inland irrigation districts in New South Wales. This would have a devastating effect on the rice industry and on the environment of our inland rivers. Further examples are the transfer of Golden Dodder in pasture seed and Mesquite in the rumens of livestock to clean areas. Some of these are currently regulated under the Seeds Act 1982. Some of the restrictions on the weed seed content of seed offered for sale for sowing, which are in the Seeds Act 1982, are still needed and have been endorsed by industry. It is proposed that these provisions will now be provided for under the amended Noxious Weeds Act 1993.

The remaining matters dealt with by the Seeds Acts 1982 are now covered by a comprehensive code of conduct that has been developed in conjunction with the Seed Industry Association of Australia. As such, the Seeds Act 1982 can now be repealed. The provisions in the Act that allowed local control authorities to provide materials, equipment and services to landholders for noxious weed control were identified as being contrary to national competition policy. The bill removes these provisions. This issue has been further addressed in the national competition policy review of the Local Government Act 1993. The Local Government Act allows a local government to charge fees for services provided, including some that may relate to their noxious weed control functions. So, in order to ensure that the objectives of the Noxious Weeds Act are not frustrated by the charging of excessive fees, it is proposed that some of these charges be regulated.

Another change to the Act relates to aquatic weeds. These weeds are amongst the most devastating and difficult to manage noxious weeds in the State. Aquatic weeds or floating weeds are moved by wind, tides and stream flow and cannot always be determined as any particular person's responsibility. The Act places the obligation for control of these weeds on the landholder who owns property adjoining the waterway. So, while allowing a local control authority to exempt landholders from these responsibilities in certain circumstances, the Act does not enable the weed control responsibilities to be transferred to another party. The bill provides that the weed control responsibilities in these specific cases are transferred to the local control authority.

The bill includes other important changes that are designed to improve the operation of the Act. I will now take the House through each of them. Some changes have been made to include "owner" as well as "occupier" to cover the changes brought about by the bill. Other changes to remove the powers of the Minister for Primary Industries relating to enforcement of weed control on private lands have also been made. These powers are no longer needed as they duplicate local control authorities' powers. Other minor changes that have been made relate to the people who may sign certificates of authority as well as to how a weed control order may be served. Changes to the procedures for serving weed control notices have been made in the interest of efficiency and procedural fairness and to align this Act to similar provisions in the Rural Lands Protection Act 1998.

The bill provides for local control authorities to retain the power to serve weed control notices and to enforce those notices. However, they will now be required to inform the owner or occupier of their intention to serve the notice. Intended recipients will then have the opportunity to respond and make submissions to the local control authority about the matter. It is proposed that the bill will commence on a day or days to be appointed by proclamation. This delay is necessary for a number of reasons. First, to ensure that, before the Seeds Act is repealed, proper provision is made in the Noxious Weeds Act and the Plant Diseases Act to prohibit the sale and spread of species of weed seeds and, secondly, to ensure that the existing declared noxious weeds lists are re-evaluated so that the new weed control orders are a true reflection of current needs. In summary, I believe the bill introduces a number of significant reforms that will greatly improve noxious weed management in New South Wales. It provides a balance between the need to require noxious weed control to protect our productive and environmental resources and the needs of the community for a management system that allows consideration of contemporary techniques. I commend the bill to the House.

Debate adjourned on motion by Mr Steven Pringle.

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