

Weeds Management Act: Compliance policy

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Contact details	Weed Management Branch Phone: 08 8999 4567 Email: weedinfo@nt.gov.au
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Acronyms

You will find the following acronyms in this document.

Acronyms	Full form
DENR	Department of Environment and Natural Resources
NTG	Northern Territory Government
PIN	Penalty infringement notice
RWMP	Remedial Weed Management Plan
WMB	Weed Management Branch

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About the Weed Management Branch

The Weed Management Branch (WMB) in the Rangelands Division of the Northern Territory Government Department of Environment and Natural Resources (DENR) has administrative responsibility for the Weeds Management Act (the Act).

As part of this function, the WMB applies a risk management approach to ensure landholders manage weeds to a standard that achieves improved environmental outcomes and compliance with legislative obligations at a regional and landscape level.

The regulatory role of the WMB is guided by scientific and technical expertise in decision-making, to address specific weed-related activities and species that present the greatest risk of harm or impact on the community, economy, industry and environment.

The WMB gathers information from monitoring, surveillance and public reporting, and undertakes investigations to determine any necessary regulatory action.

The WMB maintains relationships with interstate counterparts, to ensure strategic alignment in activities.

To report a concern regarding a weed-related activity or weed species, please email weedinfo@nt.gov.au or telephone 08 8999 4567.

1 Introduction

The Department of Environment and Natural Resources (the department) is the regulatory authority responsible for administering the Weeds Management Act (the Act) and Regulations for the Northern Territory Government (NTG). The Act stands to protect the Territory's economy, community, industry and environment from the adverse impact of weeds.

The Act allows for the declaration of weeds into classifications for the purposes of preventing a plant entering into, or managing the plant in, the Territory or a part of the Territory. The Act provides for statutory weed management plans, which prescribe management actions for high priority weeds. The Act also gives powers to authorised officers, including the power to order certain activities in relation to declared weeds.

The department actively undertakes surveillance and monitoring of declared and potential weeds, to prevent and mitigate the most serious risk of harm. The department also investigates alleged offences against the Act, and takes appropriate regulatory action where these are identified. The potential consequences for breaches of the Act can be severe.

Weed Management Officers hold statutory powers under the Act, and must use their discretion when exercising their regulatory functions under the Act. The purpose of this Weeds Management Act Compliance Policy is to provide an overarching outline to stakeholders as to how the department manages its compliance function under this legislation and aims to ensure consistent and proportionate responses to non-compliance with regulatory requirements. However, in all instances the decisions of a Weed Management Officer as to the enforcement action taken will be final and cannot be called into question or reviewed.

2 Risk-based regulatory activities

The department uses a risk-based approach to determine the significance of any new weed incursions or spread of existing infestations, and the appropriate regulatory response.

When responding to actual or potential harm to the environment or a natural or cultural asset, the department will undertake an approach that follows these principles:

Targeted	Towards activities that will prevent and mitigate the most serious risk of spread and/or impact in the local environment.
Consistent	Consistent and predictable in that similar circumstances will drive similar responses.
Proportionate	To what is being addressed and how culpable the offender is.
Transparent	In the standards applied and in the way results are conveyed to the community.
Accountable	To the community, through reporting of results of compliance activities.
Inclusive	Of the community in assessing weed risks.
Authoritative	As the principal source of expert advice on regulatory requirements.
Effective	In preventing spread and/or impact, with measurable results.

The department will allocate its compliance and enforcement resources towards areas with the potential to cause the greatest risk of harm to the economy, community, industry and environment, where the biggest differences can be made, and where the greatest risk can be managed. The risk of weed spread and impact, along with the capacity to influence that risk by reducing the likelihood of spread and impact, will be factors considered.

The department uses this same risk-based approach in its monitoring and compliance activities. There are several different risks that can arise in relation to weeds and the impacts may not be immediate and apparent, nor necessarily close to the location of non-compliance. A weed that poses little risk at one location may pose a very serious risk in a different climate, ecosystem or land use. Therefore, the likelihood of weed spread is often of equal or greater concern than the immediate impact.

3 Monitoring and surveillance

The department employs a combination of monitoring strategies to support its compliance program.

Underpinning all forms of monitoring is the legislated requirement for land owners and occupiers to prevent their land becoming infested with a declared weed; to prevent the spread of weeds within or from their land; and, where a declared weed has not previously been known on the land, to notify an officer in a timely manner.

Surveillance and survey activities are targeted for the most efficient and effective mitigation of the highest risks of impact and spread. Targets may include identified geographical areas (e.g. catchments), weed species or types (e.g. aquatics, grasses, woody), weed impact types (e.g. fire hazard), and pathways of spread (e.g. transport corridors).

Surveillance activities and these initial assessments of weed location and risks will inform risk assessments and priority-setting for compliance and enforcement activities.

4 Compliance and enforcement

The department uses a staged risk-management approach to compliance that addresses unintentional or deliberate non-compliance and enables the development of appropriate strategies to prevent non-compliance.

In the first instance and for minor offences, compliance is generally encouraged through community education and warnings. The department communicates its regulatory requirements and compliance expectations to land managers and the public and assists them to understand their obligations under the Act.

Offences under the Act are summary offences; the standard of proof required as to the elements of an offence is proof 'beyond a reasonable doubt'. Therefore, in the first instance, all evidence relating to an alleged non-compliance will be gathered and considered.

There are a number of different offences under the Act. Minimum fines of 77 penalty units (for an individual) apply to a vast majority of offences should a person be prosecuted and found guilty by the Court. This is a minimum fine of over \$10,000.00. This reflects the seriousness with which these offences are considered and the significant obligations placed on owners and occupiers of land in the Territory to meet their requirements under the Act.

A table of offences under the Act with corresponding penalty units (PU) is provided in Attachment A.

Before taking a matter to court, there are a range of enforcement remedies and options available in the Act and Regulations to appropriately address a breach of the Act. However, where the level of the offending warrants prosecution, it must be seriously considered. It would be inappropriate for the WMB to avoid prosecuting offenders due to the large fines that must be imposed by the Court. Rather, these fines show that this offending should be taken very seriously. Prosecution is considered to send a strong message of general deterrence to the community.

In establishing the risk and priority for responding to non-compliant behaviour, the following are considered:

- the seriousness of the non-compliance and the potential it establishes for further harm
- the individual behaviour leading to the non-compliance including an individual's compliance history
- the extent to which others are impacted or potentially exposed to risk or harm
- which part of the legislation has been contravened.

The methods and tools for encouraging and enforcing compliance vary depending on what section of the Act has been breached. Some of the options that may be considered are set out below. An officer may implement more than one option dependent on the circumstances.

4.1 Guidance and standard-setting

The department works with stakeholders to inform the community of its activities through:

- direct extension
- targeted community engagement programs
- weed management strategies
- weeds advisory committees and
- other extension activities and products.

The minimum standards for weed management are set out in the Act. Higher standards are required to eradicate or manage some weeds. These standards are set through statutory weed management plans, developed with stakeholder input. These statutory plans inform the community and individual land managers of their legal obligations under the Act and activities and procedures to be undertaken and followed in order to avoid weed impact and spread.

Specific standards are also applied on permits issued under the Act. Those standards must be adhered to by the permit holder (failure to do so is an offence).

4.2 Warnings

Warnings will only be considered for low level compliance failures, where there is very little risk of impact or spread and low culpability. Warnings may be formal or informal, and will include instruction on what is to be done to avoid or remedy a breach of the Act.

4.3 Orders

The Act allows Weed Management Officers to order certain persons to undertake actions such as treat their land, control or eradicate weeds or clean or treat their vehicles. Failing to comply with an order is an offence. An order may be made in conjunction with the other possible enforcement actions to minimise the risk of harm to the environment from weed spread. Orders may compel persons to make good the harm (or potential harm) they have caused or may cause. Orders are not appropriate in all cases and the power to make orders is limited (section 28 of the Act).

4.4 Penalty infringement notices

The issue of a penalty infringement notice (or PIN) is appropriate for breaches involving relatively low level weed impact risk or culpability, and where warnings and orders have not been heeded. Where PINs are not available for the particular offence, prosecution must instead be considered to ensure enforcement of the law.

PINs may also be issued during a 'blitz' or 'campaign' in conjunction with community education which raises awareness of the standards required for weed management in particular targeted instances.

4.5 Remedial Weed Management Plans

In the event of a serious failure to comply with a statutory weed management plan, the department may require the submission of a Remedial Weed Management Plan (RWMP) as an alternative to prosecution. A RWMP is also binding on any mortgagee-in-possession of, and successors in title to, the land to which it relates. It is an offence to contravene or fail to comply with a RWMP.

4.6 Prosecution

Prosecution by court action may be pursued in cases where offences involve higher levels of weed impact risk and culpability, and where it is necessary to establish individual and/or broader community deterrence to ensure better weed management or compliance outcomes. It may also be pursued in cases of moderate risk and impact where infringement notices are not available.

5 Decision-making framework

5.1 Outline

This decision-making framework is provided as a guide to all Weed Management Officers and stakeholders, to facilitate consistency in enforcement actions conducted under the Act:

- for Weed Management Officers it will guide what enforcement response will be taken and
- for the community, land owners and landholders, it will provide some predictability to compliance actions to be taken.

It is a guide, as the individual circumstances of the offence and the offender will determine the specific enforcement approach taken in the situation. In some cases, the department will seek legal advice as to the actions to be taken.

5.2 Enforcement response matrix

An enforcement response will be determined based on the:

- culpability of the offender and
- risk of spread of a weed and/or the impact of a weed on a property and surrounding land.

These risk ratings are defined in section [5.3](#).

The combination of the risk ratings applied to these two factors determines the risk classifications. This is represented in Table 1.

A key to the risk classification enforcement response is used in Table 2.

Colour	Classification	Enforcement description and action required
	High	Instruct/Penalise <ul style="list-style-type: none"> Issue an order to minimise risk of weed spread and/or impact (where appropriate). Issue a Penalty Infringement Notice or (where not available) prosecute. A formal written warning may also be considered dependent on all the circumstances of the case, although it is expected that this will be rare. Note: For failure to comply with a weed management plan, consider requiring the submission of a Remedial Weed Management Plan (RWMP) as an alternative to prosecution or the making of an order.
	Medium	Warn/Instruct <ul style="list-style-type: none"> Issue a formal warning letter and advice on achieving compliance. Issue an order to minimise risk of weed spread and/or impact (where appropriate).
	Low	Educate/Warn <ul style="list-style-type: none"> Community education and build general awareness of weed management as a land management issue. Provide verbal warning to the offender.

5.3 Risk ratings

Risk ratings will be applied in accordance with the tables that follow. Where there is any overlap, the most serious risk rating applies (e.g. if there are two characteristics in the 'minor' risk rating and one in the 'moderate' risk rating – a 'moderate' risk rating will be applied).

5.3.1 Culpability of the Landholder/Individual

Risk rating	Applies to any one of the following
Serious	Intentional <ul style="list-style-type: none"> Deliberate or wilful act causing non-compliance, including non-compliance with permit conditions. Repeated non-compliance due to land management actions (or no management actions) that put other properties, assets, the environment and/or human health, safety and well-being at risk of weed spread and/or impact. Two or more past convictions or infringement notices under the Act (unless there is a gap of over five years between offending). Actions with no regard to harm or damage or prompted by financial motivation to save incurring an expense. Continual non-compliance over many control periods. Risk caused by actions or non-actions was obvious and preventable. Non-compliance represents a significant gap between actions/non-actions and standards required for management of a weed. Misleading conduct.

Risk rating	Applies to any one of the following
Major	<p>Reckless</p> <ul style="list-style-type: none"> • Regular and/or repeated non-compliance, or non-compliance with permit conditions or an order. • Acted recklessly but gave no thought to the risk despite obvious consequences. • Risk was readily foreseeable and easily preventable. Concerns of Weed Management Officers ignored. • Non-compliance represents a significant gap between actions/non-actions and standards required for management of a weed. • Harm has not been abated. • No weed control, clean-up or remedial action has been started. Unwilling to abate harm or take remedial action.
Moderate	<p>Knowing</p> <ul style="list-style-type: none"> • A past conviction, infringement notice or order issued under the Act. Persistent complaints from others. • Disregard of risks. Risks were foreseeable and preventable. Acted knowing that harm could result. • Non-compliance of medium duration over two or more control seasons. • Non-compliance occurred due to poor land management operations, not meeting standards of weed management. • Harm abated through weed control, clean-up and remedial action initiated. Willing to abate harm or take remedial action.
Minor	<p>Negligent</p> <ul style="list-style-type: none"> • Past non-compliance dealt with by way of verbal or written warning. Non-compliance over one to two control seasons. • Little apparent regard to risk of harm, with or without knowledge of risks caused by actions despite no intention to cause harm. • Non-compliance occurred despite reasonable standards of weed management. • Harm abated through weed control, clean-up and remedial action undertaken.
Low	<p>Low culpability</p> <ul style="list-style-type: none"> • No history of non-compliance. • Genuine lack of awareness.

5.3.2 Risk of weed spread and/or impact

Risk rating (weed spread/impact)	Applies to any one of the following
<p>Certain</p> <p>Severe</p>	<p>Land management history indicates weed is certain to spread to new properties or new areas due to repeated non-compliant behaviour by land owner or landholder.</p> <p>The density and distribution of the weed indicates it will have a severe (long-term, serious or wide-scale) impact on property, assets, the environment and human health, safety and well-being.</p>

Risk rating (weed spread/impact)	Applies to any one of the following
Likely	Land management history indicates weed is likely to spread to new properties or new areas.
Major	The density and distribution of the weed indicate it will have a major (medium to long-term or wide-scale) impact on property, assets, the environment and human health, safety and well-being.
Possible	Land management history indicates weed will possibly spread to new properties or new areas.
Moderate	The density and distribution of the weed indicate it will have a moderate (local or short-term) impact on property, assets, the environment and human health, safety and well-being.
Unlikely	Land management history indicates weed is localised to that property and is unlikely to spread to new properties or new areas.
Minor	The density and distribution of the weed indicates it will have a minor (brief or temporary) impact on amenity.
Low	Weed will only be spread through human intervention.
Low	The density and distribution of the weed indicates it will have no or minimal impact on the environment. Affects amenity only.

6 Prioritisation of compliance and enforcement

The department again exercises a risk-based approach to prioritise detected non-compliances with regulatory requirements, in order to provide the most efficient and effective mitigation of the highest risks of impact and weed spread. The actions taken by the department in response to potential non-compliance will depend on the likely risk associated with the non-compliance and the culpability of the offender.

The department's monitoring and surveillance activities provide one source of information on possible non-compliance with regulatory requirements, and there are others, derived from numerous sources. All information, including reports from the public, are recorded and considered, but the department cannot fully investigate all reports of non-compliance. An initial assessment will be undertaken to attempt to validate the key information provided or available and establish an initial risk and priority profile.

The following criteria indicate the factors guiding the prioritisation of the department's monitoring and compliance actions:

- issues that present a risk to human health and safety, assets and/or the environment
- issues that may impact on compliant land owners
- scientific evidence of the likelihood of spread to uninfested areas
- compliance history and likelihood of reoffending.

The department may decide not to engage in regulatory action in response to non-compliance, and instead:

- provide information to the relevant party to help them understand their legal obligations and address the issue

- postpone or cease an investigation where insufficient information is available, with the ability to recommence a later investigation if more information becomes available
- provide a warning to the relevant party about the department's concerns and the possibility of future action should non-compliance continue
- deal with the issue informally where an attempt has been made to rectify non-compliance, and appropriate steps have been taken to prevent reoccurrence.

Enforcement is likely to be reserved for situations where all other avenues to encourage compliance have been unsuccessful.

7 Other agencies

Where appropriate, the department will work with other agencies in performing its monitoring and compliance functions. This may involve formal data-sharing agreements, or a more direct engagement in joint compliance activities.

8 Related legislation and documents

Weeds Management Act and Regulations.

9 Definitions

Definitions used in this document have the same meaning as in the Weeds Management Act. Where not defined the following interpretations should be applied:

Term	Definition
Compliance	The conduct of authorised activities in accordance with regulatory requirements.
Control season	The optimum time to treat a weed species, related to its location, biology and ecology and inter-generational factors.
Enforcement	The use of statutory powers to compel compliance, using one of many measures available.
Landholder	The owner or occupier of land.
Regulatory activities	Includes activities carried out under the Weeds Management Act in relation to compliance with the Act and enforcement of non-compliance.
Standards	Refers to the statutory weed management plan/s for the particular weed species or any other strategic planning document in force that relates to the requirements for land owners and landholders to control weeds.

Attachment A: Table of offences under the Weeds Management Act

Offence	Minimum penalty	Maximum penalty	Able to issue infringement notice?
Section 9(1)(a) – owner and occupier of land must take all reasonable measures to prevent the land being infested with a declared weed.	77 PU	770 PU	No
Section 9(1)(b) – owner and occupier of land must take all reasonable measures to prevent a declared weed or potential weed on the land spreading to other land.	77 PU	770 PU	No
Section 9(1)(c) – owner and occupier of land must, within 14 days after first becoming aware of a declared weed that has not previously been, or known to have been, present on the land, notify an officer of the presence of the declared weed.	77 PU	770 PU	No
Section 9(2) – owner and occupier of land on which a declared weed or potential weed is present must comply with a weed management plan relating to the weed.	77 PU	770 PU	No
Section 9(3) – owner and occupier of land on which a potential weed is present must dispose of the weed only on the land or at a designated weed disposal area.	77 PU	770 PU	Yes (1.7 PU)
Section 9(4)(a) – a person must not, except in accordance with a permit, bring a declared weed or take part in, or be responsible for, bringing a declared weed into the Territory.	77 PU	770 PU	Yes (1.7 PU)
Section 9(4)(b) – a person must not, except in accordance with a permit, propagate or scatter a declared weed.	77 PU	770 PU	Yes (1.7 PU)
Section 9(4)(c) – a person must not, except in accordance with a permit, sell or offer to sell a declared weed or anything that contains or carries a declared weed.	77 PU	770 PU	Yes (1.7 PU)
Section 9(4)(d) – a person must not, except in accordance with a permit, hire any equipment, device or thing that contains or carries a declared weed or potential weed.	77 PU	770 PU	Yes (1.7 PU)
Section 9(4)(e) – a person must not, except in accordance with a permit, purchase or offer to purchase a declared weed or anything that contains or carries a declared weed.	77 PU	770 PU	Yes (1.7 PU)
Section 9(4)(f) – a person must not, except in accordance with a permit, store, grow or use a declared weed or anything that contains or carries a declared weed.	77 PU	770 PU	Yes (1.7 PU)
Section 9(4)(g) – a person must not, except in accordance with a permit, transport or carry on his or her person a declared weed or anything that contains or carries a declared weed.	77 PU	770 PU	Yes (1.7 PU)

Offence	Minimum penalty	Maximum penalty	Able to issue infringement notice?
Section 9(6) – a plant or thing transported in accordance with section 9(5) (i.e. transported to an officer for the purpose of identification), must be transported or carried in a sealed container.	77 PU	770 PU	Yes (1.7 PU)
Section 14(4) – owner or occupier of land who is given a direction under section 14(1)(b) (to prepare a remedial weed management plan) must prepare that plan and submit it to the Minister within the time directed by the Minister.	77 PU	770 PU	No
Section 14(12) – person to whom a remedial weed management plan applies must not contravene or fail to comply with the plan.	77 PU	770 PU	No
Section 15(5) – person to whom an emergency weed management plan applies must not contravene or fail to comply with the plan.	77 PU	770 PU	No
Section 20 – member of weed advisory committee must not disclose information obtained in the course of their duties as a member unless the disclosure is made in the course of those duties.	Nil	50 PU	Yes (1.5 PU)
Section 21(3) – person must not contravene or fail to comply with a restriction specified in a notice under section 21(1) [being a notice declaring land as a quarantine area which may impose the restrictions specified in section 21(2)(b)].	77 PU	770 PU	Yes (1.7 PU)
Section 23(3) – person must not contravene or fail to comply with a rule applying to the management of a cleaning area or a rule applying to persons using a cleaning area and the fees to be paid to use the facilities of a cleaning area.	77 PU	770 PU	Yes (1.7 PU)
Section 24(5) – weed management officer must, as soon as practicable after ceasing to be an officer, return their identity card issued under section 24(2).	Nil	50 PU	Yes (1.5 PU)
Section 26(1) – person must not obstruct or hinder an officer who is exercising or attempting to exercise a power or function under the Act.	Nil	100 PU	Yes (1.5 PU)
Section 26(2) – person must not contravene or fail to comply with an order given by an officer or authorised person under the Act.	Nil	100 PU	Yes (1.5 PU)
Section 27 – person must not knowingly give an officer or authorised person information that is false or misleading in a material particular.	Nil	100 PU	Yes (1.5 PU)

Offence	Minimum penalty	Maximum penalty	Able to issue infringement notice?
<p>Section 29(4) – person to whom a notice applies under section 29 must not contravene or fail to comply with the notice.</p> <p>[Note: A notice may be given to an individual owner or occupier by way of written notice or to a group of owners and occupiers as specified by a notice in the Gazette and a newspaper circulating in the NT. The notice requires the owners and occupiers to notify the Minister of the presence of a plant, declared weed or potential weed on their land within the time specified in the notice].</p>	77 PU	770 PU	Yes (1.7 PU)
<p>Section 30(6) – person must comply with and not contravene a condition to which a permit issued under section 30 is subject.</p>	77 PU	770 PU	No
<p>Section 31(1) – person must not cut or mow an area for the purpose of producing fodder or mulch if the person knows or should reasonably know that the area is infested or contaminated with a declared weed except to manage a declared weed in accordance with a weed management plan.</p>	77 PU	770 PU	Yes (1.7 PU)
<p>Section 32(1)(a) – person must not move or drive an animal or vehicle they know or should reasonable know contains or carries a declared weed on a public road unless the animal or vehicle has been cleaned in accordance with a declared weed management plan or in compliance with the direction of an officer.</p>	77 PU	770 PU	No
<p>Section 32(1)(b) – person must not move or drive an animal or vehicle they know or should reasonable know contains or carries a declared weed from the person’s land to another person’s land unless the animal or vehicle has been cleaned in accordance with a declared weed management plan or in compliance with the direction of an officer.</p>	77 PU	770 PU	No