

# COUNCIL POLICY

**Policy Name**

Noxious Weeds Inspections Private Premises

**Abstract**

To reduce the negative impact of noxious weeds on the economy, community and environment of the Gunnedah Shire Council.

<b>Dates</b>	Policy or amendment approved	17 Dec 2008
	Policy or amendment takes effect	17 Dec 2008
	Policy is due for review (up to 4 years)	17 Dec 2008
<b>Endorsed by</b>	Council	
<b>Approved by</b>	Gunnedah Shire Council at its Ordinary Meeting held on 17 Dec 2008 Resolution number: 144.2	
<b>Policy Custodian</b>	Manager Public Facilities	
<b>Relevant to</b>	Council	
<b>Superseded Policies</b>		
<b>Related documents</b>		
<b>Related legislation</b>		

**CONCEPT**

The Noxious Weeds Act 1993 places an obligation on all landholders within the state of NSW to control declared noxious weeds on land in accordance with the control measures specified within that Act.

Local Government has been given the charter of Noxious weed control on public land for which they are responsible, as well as being delegated with the power to ensure all sections of this Act are complied with by private landholders and other land managers within their shire.

Local Councils may at their own discretion, choose to address issues relating noxious weeds management on an individual shire basis, contribute collectively to a Noxious Weeds County Council managed on behalf of constituent councils, or embark on a cooperative arrangement agreement with neighbouring councils who may share a common region of interest. For the purpose of the Act any one of these organisations operating within a given area are considered Local Control Authorities (L.C.A's).

In order to achieve the desired outcomes in relation to noxious weed control on both public and private land, it is expected that L.C.A's should employ at least one competent full time Weeds Officer, armed with the expertise to ensure all available recourses are managed efficiently and effectively.

It is expected that all L.C.A's will have in place medium to long-term management plans which address issues relating to:

- Council control works on all state, regional and local roads and reserves.
- Structured programs for noxious weeds inspections of private property within the shire.
- Participation in Regional weed control programs.
- Public education and awareness programs.
- Declaration of new and emerging weeds.
- Efficient and effective reporting and monitoring procedures.

Financial support is presently available from State Government through matched grant funding arrangements overseen by The Department of Primary the Department. The continuation of these grants depends largely on a demonstrated ability to deliver effective, cost efficient weed management to the community.

## **POLICY STATEMENT**

That Council continues to maintain a fully operational Noxious Weeds unit whilst ever there is a requirement under the Act to do so. The main function of this unit will be to control noxious weeds on council roads and reserves, as well as ensuring private landholders and other land managers also comply with their obligations under the Act. This unit will also be responsible for an ongoing public awareness and education program aimed at raising the profile of noxious weeds management within the shire.

Funding:

- That council meets the minimum required contribution to the agreed benchmark for weed control coordination. This benchmark is set annually by the Department of Primary Industries.
- That council continues, through the Senior Weeds Officer, to seek State Government funding for noxious weed management via Weed Control Coordination Assistance grant applications.
- That council continues to participate in, and commit financially to Regional weed Control Plans. This ensures a more regional approach to weed management, in line with the objectives of the National Weeds Strategy.

## **PROCEEDURE: NOXIOUS WEEDS INSPECTIONS ON PRIVATE PROPERTY**

- a) Inspections on premises shall be carried out only after an appropriate risk assessment has been completed.
- b) Inspection of private premises may only be conducted with the verbal or written consent of the owner or occupier of that property.
- c) If verbal permission being sought at the point of inspection, an officer, on entry to the premises must immediately contact the occupier and offer identification. If the owner or occupier refuses to issue consent to the requesting officer, an alternate date and time should be negotiated. Should no agreement be met on a satisfactory date and time, the matter should be referred to the Manager of Engineering Services as soon as possible.
- d) Entry to private premises for the purpose of noxious weeds inspections shall be made only by Noxious Weeds Officers employed by the Gunnedah Shire Council. Officers will be issued with written authority signed by the General Manager. Identification and proof of delegated authority must accompany the officer at all times.

- e) Entry to private premises for the purpose of noxious weeds inspections is to be conducted during normal business hours i.e. between the hours of 8.30 am and 5.30 pm Monday to Friday. Inspections outside these hours are to be made only following verbal or written request.
- f) Inspections of premises are to be carried out where possible, in the presence of the owner or occupier. If an officer is refused entry to, or asked to leave premises, the officer is required to leave the premises immediately and contact the Manager of Engineering Services.
- g) On completion of a premises inspection the owner or the occupier of the property or premises is to be issued with a property inspection report. If the owner or occupier is not present at the time of inspection, the inspecting officer shall post a property inspection report to that person at the earliest possible convenience.
- h) If during the course of a premises inspection, an officer of the council identifies a weed or weeds declared noxious within the shire area, this must be reported to the owner/occupier of the property of premises, both verbally (where possible), and on a completed property inspection report.
- i) Following the identification of declared noxious weeds the officer will attempt to provide the owner/occupier with sufficient information and technical data to assist in their control. Best management practices must be promoted at all times, with outcomes to be achievable and in line with all associated statutory requirements. Reinspection of premises should be scheduled at an appropriate date, allowing reasonable time for control to be effected.
- i) If, following a premises reinspection an officer is not satisfied all reasonable steps have been taken to control noxious weeds, he/she may issue a section 18 Weeds Control Notice, or an Emergency Weed Control Notice. The officer must first advise the occupier/ owner of his/her intention by registered mail. This process will be referred to as "Prior notice of a weed control notice" (Section 18 A).
- k) A weeds control notice is to be issued in all cases where Classes 1,2,3 noxious weeds have been identified on premises.

Notification of a notice must include the following provisions:

1. Council must give notice to the owner/occupier of the terms of the proposed notice, and the period in which action must be taken.
  2. The notice must specify a period (not less than seven days) within which submissions about the proposed notice may be made to council.
  3. Council must consider any submissions made by, or on behalf of the owner/occupier
- l) Once notification of a notice has been sent to an owner/occupier, and confirmation received that the notification of notice has been received, the officer may then proceed to issue a Section 18 Weed Control Notice.
  - m) Information contained on the Section 18 Weed Control Notice must include:
    - A description of the land to which the notice applies including parish, lot and D.P. and
    - assessment number.
    - The date on which the property was inspected and the time the inspection commenced.
    - The name and address of the owner and the occupier.
    - The area inspected.

- The name, both common and botanical, of the actual noxious weeds identified
  - The weed control class assigned to that particular weed by its respective weed control order.
  - The area infested by that particular weed.
  - The degree of infestation.
  - The suggested course of action required to deal with that particular weed.
  - A date by which that course of action is to be completed.
  - Other comment referring to that particular weed or weed control notice
  - The signature and contact details of the issuing officer.
- n) After the period of time for requested control has elapsed, the officer will then be required to perform a reinspection of the premises described on the Section 18 Weed Control Notice. This reinspection will be carried out following the same notification format as the original inspection.
- o) If the officer is satisfied that the owner/occupier has satisfied all conditions of the Weed Control Notice, then the owner/occupier shall be advised in writing of the same.
- p) Should the Section 18 Weed Control Notice not be fully complied with by the date specified on the notice, the issuing officer shall contact the owner/occupier to establish a reason for non-compliance. Should a valid reason for non-compliance be not forthcoming, the issuing officer shall inform the Manager of Engineering Services to discuss further action if necessary.

Further action may include:

- An extension of the deadline stated on the original notice.
- An alternative control plan to possibly assist control
- Legal action under Section 19 of the Noxious Weeds Act – “Failure to comply with a weed control notice”.
- The issue of an On The Spot Fine
- \*Noxious weeds controlled by council under Section 20 of the Noxious Weeds Act, Control by Local Control Authority after notice not complied with.

\* A Local Control Authority may control noxious weeds on land subject to a weed control order if the owner/occupier fails, or a predecessor in title to the owner/occupier, has failed to comply with a weed control notice given in accordance with sections 18 and 18A of the Act provided:

- Persons authorised in writing by an L.C.A. may control noxious weeds on behalf of the L.C.A. under this section and may enter premises for that purpose.
  - Not less than 24 hours notice is given of any proposed noxious weed control (except where an emergency control notice has been given).
  - If an emergency weed control notice has been given council must if practical give prior written or verbal notice to the owner/occupier of the land concerned.
- q) Council will keep accurate records of all Private property/premises inspections undertaken in their area of control in line with requirements of section 37 of the Noxious Weeds Act.

## **DEFINITIONS AS DEFINED BY THE NOXIOUS WEEDS ACT 1993**

### **43 Power of entry**

- (1) For the purposes of this Act, an inspector, authorised officer or other person authorised by a local authority to control noxious weeds on land may enter any premises.
- (2) Entry may be made at all reasonable hours.

### **44 Inspections and investigations**

For the purposes of this Act, an inspector or an authorised officer who has a power to enter premises may do any of the following:

- (a) Inspect the premises,
- (b) Search the premises,
- (c) Examine, seize, detain or remove any noxious weed material in or about those premises,
- (d) Require the production of and inspect any records in or about those premises,
- (e) Take copies of, or extracts or notes from, any such records,
- (f) Require any person in or about those premises to answer questions or otherwise furnish information,
- (g) Require the occupier of those premises to provide the inspector or authorised officer with such assistance and facilities as is or are reasonably necessary to enable the inspector or authorised officer to exercise his or her functions,
- (h) Remove or destroy or cause to be removed or destroyed any noxious weed material found in or about those premises,
- (i) Break open and search any box, container, package or receptacle (including any place that could be used as a receptacle) in or about those premises.

### **45 Notice of entry**

- (1) Before an inspector, authorised officer or other person authorised to enter premises does so, the local control authority must give the occupier of the premises oral or written notice of the intention to enter the premises on a day specified in the notice.
- (2) This section does not require notice to be given:
  - (a) If entry to the premises is made with the consent of the occupier of the premises, or
  - (b) If entry is required urgently and the local control authority has authorised in writing (either generally or in the particular case) entry without notice.

## **DICTIONARY**

**Premises:** includes any land, structure, building, aircraft, vehicle, vessel and place (whether built on or not), and any part of it.

## **NOXIOUS WEEDS CONTROL POLICY**

Control works on declared noxious weeds within the Gunnedah Shire Council will be undertaken on a priority basis. Priorities will be assessed annually, and the appropriate levels of control effected on depending on seasonal conditions, available resources and the control class of individual weeds. Priority for control will be governed by the following classifications.

## CONTROL CLASS

There will be five individual control classes of declared noxious weeds as from the first of December 2005. Noxious weeds in the Gunnedah Shire Council will be classified according to their significance at either a state, regional or local level. Priority of control will be dictated by the classification that applies to individual weeds.

### CLASS 1 – State Prohibited Weeds:

“Plants that pose a potentially serious threat to primary production or the environment and are not present in the state or are present only to a limited extent”.

Example: Parthenium

- The intent is to provide a high level of action to those weeds of **statewide** significance.
- The objective is to prevent establishment of new weeds.

**These weeds will receive top priority in relation to control works and funding.** Control will be carried out whenever necessary, prior to other declared species in the Shire.

### CLASS 2 – Regionally Prohibited Weeds:

“Plants that pose a potentially serious threat to primary production or the environment of a region to which the order applies and are not present in the region or are present to a limited extent”

Example: Alligator Weed

- The intent is to provide a high level of control on a regional basis.
- The objective is to prevent the establishment of new weeds species in parts of NSW.

**These weeds will receive top priority in relation to control works and funding.** Control will be carried out whenever necessary, prior to other declared species in the Shire.

### CLASS 3 – Regionally Controlled Weeds:

Example: Green Cestrum, Silver leaf Nightshade, St. Johns Wort.

“Plants that pose a potentially serious threat to primary production or the environment of an area to which the order applies, are not widely distributed in the area and are likely to spread in the area or to another area.

- This class is intended to provide for enforceable control where necessary on a local or regional basis

**These weeds are likely to be present in limited numbers in the Gunnedah Shire Council and would most likely be the subject of Regional control plans.** Priority will be given to the control of class 3 weeds over and above Class 4 locally controlled weeds. Council will continue to fund and participate in regional group projects that target Class 3 weeds.

### CLASS 4 – Locally Controlled Weeds:

“Plants that pose a threat to primary production, the environment or human health, are widely distributed in an area to which the order applies and are likely to spread in the area or to another area.

- This class is intended to include common and widespread species as well as environmental weeds of more locally specific impact.

**Class 4 locally controlled weeds will be treated where infestations are considered rare and isolated. This Control work will be undertaken only when all issues regarding Class 3 Weeds have been addressed and objectives of regional plans achieved.**

**Control may also be effected on Class 4 weeds should complaints are received from landholders regarding spread from council controlled land onto adjoining private property. The Senior Weeds officer together their delegated Director will assess all complaints on case-by-case basis.**

**CLASS 5 – Restricted Plants:**

- These are plants that are likely, by sale of the plant or seeds, or movement in the State or an area of the State, to spread in then State or outside the State.

**Class 5 weeds will carry the same priority as Class 1 and 2 weeds.**

#### **PUBLIC CONSULTATION PROCEEDURES:**

Following amendments to the act, Weed Control Orders declaring weeds noxious and applying classes to individual weeds, will need to be reviewed at periods up to, but not exceeding five years. This review process will require that **Public Consultation** be sought before either making a new order, or changing one that already exists. The process of public consultation is described in detail in section 9 of the Act.

#### **POLICY:**

That all new weeds control orders or changes in existing orders, be subject to public consultation. The process of public consultation will include:

- Publishing a notice of intention to make an order in local newspapers.
- Indicating where and when a copy of the proposed order is to be placed on public exhibition.
- Publicly exhibiting the proposed order for a period of at least 21 days.
- The minister considering any submissions on the proposed order.

#### **NOXIOUS WEEDS CONTROL PROCEEDURES**

- All noxious weeds control work is to be conducted in accordance with the appropriate safe work methods statement.
- The Senior Weeds Officer in consultation with the Manager of Engineering Services will oversee control works on all Council controlled land.
- All employees involved in noxious weed control works on behalf of the Gunnedah Shire Council must be fully accredited agricultural chemical users, and hold Agsafe personal accreditation.
- All employees involved in noxious weed control works on behalf of the Gunnedah Shire Council must complete all documentation associated with individual activities before leaving the worksite. Documentation is to include, risk assessments, chemical application records and daily running sheets where necessary.
- All employees involved in noxious weed control works on behalf of the Gunnedah Shire Council must, at all times observe relevant legislation in regard to the use of pesticides.

## Version Control and change history

Date	Version	Approved by & Resolution No.	Amendment
17 Dec 2008	1	Council Meeting 17 Dec 2008 Resolution 144.2	