



## **DIRECTOR SHIRE SERVICES REPORT**

14th February 2006

**DSS2      NOXIOUS WEEDS AMENDMENT ACT 2005  
FILE: 150   GWE**

### **SUMMARY:**

Reporting on the Noxious Weeds Amendment Act 2005



### **DESCRIPTION:**

The purpose of this report is to advise Council of the amendments to the Noxious Weeds Act and to recommend the necessary procedural changes to Council Notices, the Noxious Weeds Policy and to seek the appropriate delegation from Council.

Advice has been received from the State Weed Control Co-ordinator, NSW Department of Primary Industries, Mr Syd Lisle, of the changes to the Noxious Weeds Act 1993 (the Act) that will affect the way in which councils manage noxious weeds. As part of the process of implementing the changes, the NSW Department of Primary Industries has been conducting a series of workshops around the State. Council's Weeds Officer and the Open Space and Recreation Co-ordinator, as well as the Mid North Coast Weeds Advisory Committee's Regional Weeds Management Officer, attended the workshops.

The main changes relate to authorisations, delegations and procedures under the Act, required to ensure that any actions taken by Weeds Officers are supported by the legislation.

Summaries of these changes are as follows:

- 1 Under Section 50 of the Act, an "inspector" (Weeds Officer) must be able to provide, if asked, a Certificate of Authority, in a form approved by the Director-General of the NSW Department of Primary Industries and signed by the General Manager. This enables a Weeds Officer to be an inspector under the Act and exercise their powers and functions. Being an authorised inspector under the Local Government Act does not automatically mean that the officer is an

authorised inspector under the Act. This must be a specific Noxious Weeds Act authorisation.

- 2 In most cases, notices under the Act can only be given by the "local control authority", that is, only the Council can give the notices. Under Section 68 of the Act, a local control authority may delegate authority to sign and service a Section 18 Notice (or other notices) requiring owners or occupiers of land to control noxious weeds or for other purposes. If Council wishes to have any staff member, including the General Manager, senior staff or Weeds Officer, sign notices on behalf of Council, the authority must be officially delegated, by a resolution of Council recorded in Council Minutes. Again, this delegation must be specific to the Noxious Weeds Act 1993. The power to delegate this function cannot be delegated.
- 3 Upon commencement of the Noxious Weeds Amendment Act under Section 18A of the Act, a local control authority must give prior notice of the intention to give a Section 18 Notice. The person given the notice then has the right to make a submission to the local control authority about the proposed notice.

A defined process needs to exist within the local control authority allowing consideration of such submissions before the commencement of the amendments.

With respect to clause 1 above Council has not had in place an appropriate "Certificate of Authority" for its noxious weeds staff. A Certificate of Authority has been prepared with advice from Department of Primary Industries and copy is attached at [Appendix A](#).

Under clause 3 above, Council will now be required to put in place procedures similar to those under the Local Government Act 1993 and the Environmental Planning and Assessment Act 1993 when issuing a notice of intention to give an order and a mechanism for hearing any submissions. The procedures are in the process of being developed in conjunction with the Mid North Coast Weeds Advisory Committee.

Council's Noxious Weeds Policy has been updated and amended to include the provisions of the Noxious Weeds Amendment Act. A copy of the proposed amended policy is attached [Appendix B](#) for Council's information.

In addition to the legal requirements there are a number of other changes that relate to weed control planning, community education, inspections and service of notices. This reflects a shift from being enforcement based function to that of an objective / outcome based function.

There has also been a change in the way in which weeds are declared noxious. In summary there will be 5 classes of weeds, based on their level of presence and impact, being:

- Class 1 – State Prohibited Weeds
- Class 2 – Regionally Prohibited Weeds
- Class 3 – Regionally Controlled Weeds
- Class 4 – Locally Controlled Weeds
- Class 5 – Restricted Plants

## **REPORT IMPLICATIONS:**

- ***Environmental***

*The environmental implications of this report are steps to minimise the effects of noxious and environmental weeds on the natural environment.*

- ***Social***

*The social implications of this report are the obligations of landowners to control the spread of noxious weeds and the change in focus from enforcement to outcomes.*

- ***Economic (Financial)***

*There are no budgetary implications in adopting the recommendations of this report.*

- ***Policy or Statutory***

*Council's Noxious Weeds Policy has been updated and amended to incorporate the new provisions.*

*The procedures for dealing with submissions in respect of such notice, as required by the Noxious Weeds Amendment Act 2005, are being developed and will be reported further.*

- ***Director's Review***

*Council needs to take the recommended action to ensure compliance with the new Act.*

## **RECOMMENDATION:**

- 1 That the changes to the Noxious Weeds Act 1993 and the Noxious Weeds Amendment Act 2005 be noted.
- 2 That the power to sign and serve Section 18 Notices (or other notices) requiring owners or occupiers of land to control noxious weeds as provided for under the provisions of the Noxious Weeds Act 1993 and the Noxious Weeds Amendment Act 2005, be delegated to the Director Shire Services.

- 3 That the attached "Certificate of Authority" be accepted and signed by the General Manager.**

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**K J Finnie**  
**DIRECTOR SHIRE SERVICES**