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8. REFERENCES
   Noxious Weed Act 1993
1. **SCOPE**

The purpose of this procedure is to outline the process for inspection, issuing of notices and the general treatment of noxious weeds as required by the Noxious Weeds Act 1993 No.11.

2. **APPLICATION**

This procedure is applicable when inspecting properties for noxious weeds, and where noxious weeds are found on the property, the treatment options as required under the Noxious Weeds Act 1993 No.11.

3. **RESPONSIBILITY**

**General Manager**

The General Manager has direct delegation from Dungog Shire Council, being the local control authority, to enact its powers, duties and responsibilities under the Noxious Weeds Act 1993 No.11.

Specifically, the General Manager has delegated authority to issue certificates of authority for Inspectors, issue weed control notices and certificates, authorise weed removal work, authorise the use of force to comply with the Noxious Weeds Act, and initiate prosecutions under the Noxious Weeds Act.

**Manager of Environmental Services**

The Manager of Environmental Services has direct delegation from Council to enact it’s powers, duties and responsibilities under the Noxious Weeds Act, specifically, to issue weed control notices and certificates, authorise weed control work on private property, and impose temporary restrictions under the Noxious Weed Act

**Noxious Weed Operator**

The Noxious Weed Operator is responsible for undertaking inspections of properties, issuing notices under the Noxious Weeds Act and treating noxious weeds in the Dungog Shire Council local government area.

The Noxious Weed Operator has delegated authority from Council as an ‘Inspector’, to inspect land and any other premises for the presence of noxious weeds and liaising with the landowner/occupier in regard to the management of those weeds.

**Certificate of Authority** *(Section 50 Noxious Weeds Act 1993)*

Inspectors must be appointed by Council. Once appointed, the General Manager will issue a Certificate of Authority to Inspectors. The Certificate of Authority outlines the duties delegated to the Council Officer under the Noxious Weeds Act.

Council Officers undertaking duties under the Noxious Weeds Act, are also required to carry Identification which includes a current passport sized photograph, the name of the organisation they are working for and their title, their signature and be authorised by the General Manager. This identification card must be presented upon request.
4. REQUIREMENTS

4.1 Weed Control Classes and Legislative Requirements

<table>
<thead>
<tr>
<th>Class</th>
<th>Class Characteristics</th>
<th>Legislative Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>State prohibited weeds.</td>
<td>Class 1 weeds are <em>notifiable</em> and, as such, the presence of the weed on land must be notified to the local control authority (Dungog Shire Council) within 72 hours of detection. The plant must be eradicated from the land and the land must be kept free of the plant.</td>
</tr>
<tr>
<td>2</td>
<td>Regionally prohibited weeds.</td>
<td>Class 2 weeds are <em>notifiable</em> and, as such, the presence of the weed on land must be notified to the local control authority (Dungog Shire Council) within 72 hours of detection. The plant must be eradicated from the land and the land must be kept free of the plant.</td>
</tr>
<tr>
<td>3</td>
<td>Regionally controlled weeds.</td>
<td>The plant must be fully and continuously suppressed and destroyed.</td>
</tr>
<tr>
<td>4</td>
<td>Locally controlled weeds.</td>
<td>The growth and spread of the plant must be controlled according to the measures specified in a management plan published by Dungog Shire Council for that particular plant. The plant must not be sold, propagated or knowingly distributed.</td>
</tr>
<tr>
<td>5</td>
<td>Restricted plants</td>
<td>The plant must not be sold or purchased and must not be moved from the land.</td>
</tr>
</tbody>
</table>

4.2 Transfer of Noxious Weed Material from One Location to Another Location/s.

*Sections 30 & 32*

Under the requirements of the Noxious Weeds Act 1993 No.11, a person must not, knowingly, scatter or cause to be scattered, on land or water any notifiable weed material or other noxious weeds material as prescribed by the regulations. This includes transporting, moving or using an agricultural machine that has on, or in it, a notifiable weed.

Therefore, contractors and Council employees involved in road/drainage construction and maintenance activities need to be especially aware of the impact their activities may have on the inadvertent spread of noxious and other environmental weeds. Council’s operational staff must notify Council’s Weed Control Team Leader when any noxious weeds are identified on worksites. The Weed Control Team Leader will inspect and advise on removal options or program the eradication works.

4.3 Treatment

Should treatment of noxious weeds on a property be required, the owner/occupier of the land may:

1. Carry out control works themselves.
2. Engage a private contractor to carry out control works. Council will not act as a coordinator for owner/occupiers and private contractors.
3. Do nothing. Should the owner/occupier choose this path, then this Noxious Weeds Inspection and Enforcement Procedure will be enforced.

On properties that have extensive noxious weed infestations, it may be necessary for a ‘weed management plan’ to be developed by Council’s Noxious Weed Operator for compliance by the property owner/occupier. The plan will:

1. Be drafted in agreement with the owner/occupier, who must agree to abide by it.
2. Clearly state the level of control and/or area/s to be treated within a given timeframe.
3. Be signed off by both the owner/occupier and an authorised officer of Council.

Failure to comply with an adopted weed management plan, or refusal to enter into a weed management plan, will result in this Noxious Weeds Inspection Enforcement Procedure being enforced.

4.4 Development Applications

Council’s Noxious Weeds Operator is to be notified of relevant development applications lodged with Council. Should, through checking of records or a site inspection, noxious weeds be found to be present on the site, the developer will be required to treat the noxious weed as per this Noxious Weeds Inspection & Enforcement Procedure.

5. THE PROCESS OF INSPECTIONS & ENFORCEMENT

The Noxious Weeds Act, 1993 No.11 specifies how noxious weeds are to be controlled, through a process of inspections and notices to owner/occupiers to ensure they appropriately treat noxious weeds growing on their land.

Property inspections will include plant nurseries, weekend markets, etc to check that noxious weeds are not being either, knowingly or unknowingly, sold and potentially spread throughout the Council area. Any notifiable weed material or any other noxious weed material prescribed by the regulation found for sale in such a premises may be seized or detained from sale.

The inspection and enforcement process is detailed below, and also, outlined in a flowchart attached as Annexure 1.

5.1 INSPECTIONS

Businesses or premises that may sell noxious weeds Section 28, 29 & 44

Issue of Notice to Enter and Inspect for Noxious Weeds Section 43, 45 & 50

A Notice to Enter and Inspect for Noxious Weeds under Sections 43 and 45 of the Noxious Weeds Act, must be issued prior to entering the property unless permission to enter is provided by the owner/occupier of the premises or if entry is required urgently and the Council has authorised in writing an ‘Entry Without Notice’. Council must give the occupier of the premises oral or written notice of the intention to enter the premises on a day or within a period specified in the notice.

Notice to enter and inspect for Noxious Weeds does not need to be given if consent to enter the premises is provided by the occupier of the premises.

The inspector must produce their certificate of authority if requested to do so by the occupier of the premises.
Use of Force Section 46

The use of force to gain entry to premises (other than residential premises) must be authorised by the General Manager in accordance with Section 46 of the Noxious Weeds Act, 1993 No.11. Authorisation to enter premises using force will only be given under the following circumstances:-

1. Written notice to inspect premises has been given by either a Section 45 Notice, a Noxious Weeds Advice Notice, a Re-inspection Notice, a Section 18 Notice; or
2. When carrying out works under Section 20 of the Noxious Weeds Act, 1993 No.11.

The authority is to specify the circumstances which are required to exist in a case before force may be used. A general authorisation for the use of force will not be given.

Notification of Use of Force or Entry Without Notice Section 47

An inspector, authorised officer or other person authorised to enter premises who:

(a) uses force for the purpose of gaining entry to the premises, or
(b) enters the premises without notice having been given to the occupier of the premises of the intention to enter as required by Section 45, must promptly advise the General Manager to arrange written notice to that effect to be served on the persons or authorities as appear to the General Manager to be appropriate in the circumstances.

Noxious Weed Management Plans

During the inspection process for noxious weeds, landholders will be encouraged to develop a Weed Management Plan for their property. The plans will cover control measures for specific weed infestations and a commitment from the landholder that the control measure will be met within a designated time frame. Council’s Noxious Weed Operator will assist landholders in the development of these plans. A sample Weed Management Plan is attached in Annexure 5.

5.2 ISSUE OF NOXIOUS WEEDS NOTICES

Notice of Intent to Issue a Weed Control Notice Section 18A

Once two inspections have been completed and no agreement has been reached on a specific weed management plan for the treatment of the noxious weeds in question, Council will proceed with intent to serve the owner/occupier with a Weed Control Notice as prescribed in Section 18 of the Noxious Weed Act 1993 No.11. Prior to this notice being served, the owner/occupier must be advised of Council’s intention to serve the notice.

To this end, a Letter of Intent to Serve a Weed Control Notice will be issued to the owner/occupier, either personally or by post or in any other manner permitted by Section 71 of the Act, advising them of the terms of the proposed notice and the period within which action must be taken.

The notice must specify a period, being not less than 7 days, within which submissions about the proposed notice may be made to Council. The Manager of Environmental services and relevant staff, will consider any submission made by or on behalf of an owner or occupier and determine whether to proceed with the proposed notice and, if proceeding, whether to change its terms.
Issue of Control Notices Section 18

Once Council is satisfied that the owner/occupier of the land has failed to carry out control works as advised, a Weed Control Notice may be issued. The notice advises the owner/occupier of their obligations to control noxious weeds on that land as required under a weed control order and the timeframe in which the work must be carried out (not less than 14 days). The notice is to be given in writing either personally or by post or in any other manner permitted by Section 71 of the Act.

The Weed Control Notice also advises the owner/occupier of their right to appeal the notice to the Land and Environment Court within the timeframe prescribed in the notice. On hearing the appeal the court may amend or revoke the Weed Control Notice, or confirm the notice. If an appeal is duly made to the court against a notice, the operation of the notice is suspended pending the final determination of the appeal, unless the court orders that the notice continues to have effect.

Council Undertakes the Weed Control Section 20

Should an owner/occupier of land fail to comply with a Weed Control Notice, Council may enter and carry out the control works under Section 20 of the Noxious Weeds Act, 1993 No.11.

Approval for ‘Enter and Control’ is to be given by the General Manager or Manager of Environmental Services or persons acting in the position.

Council must give prior notice (at least 24 hours) of any proposed control of noxious weeds to the owner/occupier of the land concerned.

Issue of infringement Notices Section 12 & 63

Infringement notices may be issued under Section 12 of the Noxious Weeds Act, 1993 No.11, to owner/occupiers who consistently fail to fulfill their obligations under the Act.

Infringement notices would only be served on an owner/occupier after they have been and failed to comply with the requirements of a Weed Control Notice.

Extension of Time Requests

Extensions of time will only be considered where a genuine attempt has been made to control the specified weeds or where it can be shown that a contractor has been engaged to carry out control works. Owner/occupiers of properties may make a written submission to Council requesting an extension of time to comply with a Control Notice.

6. RECOVERY OF COSTS

Expenses to be charged on land Section 60

1. Any expenses payable by an owner/occupier of land to Council in connection with a Weed Control Notice and subsequent control of noxious weeds on the land are a charge on the land.

2. The charge ranks on an equal footing with a charge on the land under any other Act but takes priority over any other charge or encumbrance.

Recovery of charges and fees Section 59
Any charge or fees due and payable under this Act and which remains unpaid may be recovered as a debt in a court of competent jurisdiction.

7. ATTACHMENTS

Annexure 1  –  ‘General Procedure for Inspection & Enforcement of Noxious Weed Treatment’ flowchart
Annexure 2  –  ‘Notice to Enter and Inspect for Noxious Weeds’ template
Annexure 4  –  ‘Property Inspection for Noxious Weeds Report’ template
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8. REFERENCES

Noxious Weeds Act 1993 No.11.
Notice to enter and inspect for noxious weeds

Noxious Weeds Act 1993 – Relevant Section 44, 45

As part of our ongoing commitment and responsibility to reduce the impact of noxious weeds on our environment, Council is currently carrying out property inspections in your area.

Subsequently, Council wishes to advise that our Noxious Weed Operator is intending to enter this property, described above on [Insert Date] for the purposes of the Act.

Wherever possible, Council recommends that you or your representative should be present during this inspection.

Should you have any enquiries in regard to this matter or wish to book a time, please do not hesitate to contact <Insert Name> on < > from 7.30am – 4.30pm Monday to Friday, or by fax to the Council Works Depot, Facsimile number ,< >

Date of Issue:  
Signed:  
Noxious Weed Operator  
<Insert Name>
PROPERTY INSPECTION FOR NOXIOUS WEEDS – NIL INFESTATION REPORT

NOXIOUS WEEDS ACT 1993 – Relevant Sections 44, 45

[insert landholder name]
[insert landholder address details]

PROPERTY INSPECTION FOR NOXIOUS WEEDS – NIL INFESTATION REPORT

FOLLOWING AN INSPECTION ON [insert date] of the above mentioned land, Council is pleased to advise that there have been no significant noxious weed infestations found on your property.

Thank you for your co-operation in regard to this inspection.

Date of Issue: ___________________________  Signed: ___________________________

Lot/DP: ___________________________  Noxious Weed Operator
An inspection of your property was conducted on [insert date] by our inspector, <Insert Name>, in accordance with the provisions of the Noxious Weeds Act 1993 No. 11 for the purpose of determining the presence and extent of any declared weeds upon that property. The inspection revealed that this property is infested with the declared weeds mentioned below.
Situation in which noxious weeds are growing e.g. crops, pasture:

Control measures in progress at time of inspection:

Were these measures effective (if no, please explain):

Owner’s plan for control:

Council Requirements:

To avoid further enforcement action by the Council you are required to complete a Weed Management Plan for the control of the noxious weeds listed above on your property. Attached is a Weed Management Plan template for you to complete explaining your control intentions for the noxious weeds. Please consult with Council’s Noxious Weed Operator in regards to the Weed Management Plan and for management options available for the management and control the noxious weeds.

Re-inspection of the property will be scheduled in accordance with the Weed Management Plan proposal to be adopted.

You must contact the Noxious Weed Operator, <Insert Name>, within 14 days of the ‘date of issue’ of this notice to discuss the Weed Management Plan.

<Insert Name> may be contacted by telephone on < > Monday – Friday from 7.30am to 4.30pm, or by fax to the Council Works Depot, Facsimile number. < >

<table>
<thead>
<tr>
<th>Date of Issue:</th>
<th>Signed:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Noxious Weed Operator</td>
</tr>
<tr>
<td></td>
<td>&lt;Insert Name&gt;</td>
</tr>
</tbody>
</table>
## Noxious Weed Management Plan

<table>
<thead>
<tr>
<th>Property Number</th>
<th>DP Number/s</th>
<th>Name of Property Owner/s</th>
<th>Address of Property Owner/s</th>
<th>Address of Property</th>
<th>Weed Species Present</th>
</tr>
</thead>
</table>

### Proposed control measures (Please provide brief details for each weed to be managed.)

<table>
<thead>
<tr>
<th>Weed Species</th>
<th>Treatment Timing (tick)</th>
<th>Treatment Method</th>
<th>Approx. area to be treated (Ha) and/or the amount of Herbicide to be used</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Spring</td>
<td>Summer</td>
<td>Autumn</td>
</tr>
</tbody>
</table>
|              |        |        |        |        | Ap...
Please provide in the space below, dates and times for the control of the weeds listed.

- **Proposed Date for Weed Control**
- **Details of actions to be completed.**

On the map provided, please mark where the control work will be completed on your property.

“I hereby commit to managing the noxious weeds as detailed in the Noxious Weed Management Plan.”

Print Name …………………………………………………………………………………………………………

Signed by
Property Owner/Occupier……………………………………………………Date……………………

Signed ………………………………………………………………………………………Date………………..

<Insert Name>
NOXIOUS WEED OPERATOR
NOTICE OF INTENT TO ISSUE A WEED CONTROL NOTICE

NOXIOUS WEEDS ACT 1993 – Relevant Section 18A

Following an inspection on [insert date] of the above mentioned land, Council is not satisfied that reasonable and effective measures have been undertaken to control the noxious weed/s described below.

- Common Name
- Botanical Name
- Control Class

In accordance with Section 18A of the Noxious Weeds Act 1993, Council hereby gives notice of Council’s intention to issue a Weed Control Notice on [insert date].

This notice will require that the above noxious weed is controlled in accordance with its Control Class by …[insert date]… .

Written submissions to Council regarding the issuing of the proposed notice must be received by Council by 4.00pm, [insert date].
Dear Land Holder,

The enclosed Section 18 notice to control weeds on your property is an attempt by Council to overcome the growing threat of noxious weeds to our community. Invasive weeds like Serrated Tussock cost the State more than $50 million a year in lost production and control, whereas weeds like Parthenium may be a serious health hazard.

The serving of a Section 18 notice is Council policy when noxious weeds are observed and effective weed control has not been undertaken.

This policy is an attempt to be fair to all concerned, especially the vast majority of people who meet their responsibilities in controlling noxious weeds. It would be remiss of Council to allow the noxious weeds problems of a neighbour to cause the reinestation of a property where the owners have spent a considerable amount of time and money overcoming the problem.

**What should you do now that you have received a Section 18 notice?**

- If your noxious weed problem amounts to no more than some scattered plants in the paddock, spot spraying or hoeing will take care of the problem and there will be no further action necessary when Council re-inspects.
- If you have a more significant problem, you should talk to our Noxious Weeds Operator about a longer term control program, with some set control objectives and a timetable through a Weed Management Plan. So long as our reinspections show you are keeping your part of the Weed Management Plan, there will be no need for further action.

If you ignore a Section 18 notice and our re-inspection shows there has been no satisfactory attempt to deal with the noxious weeds problem, then Council will proceed with action against those concerned.

*We urge you to be a good neighbour and control your noxious weeds*

---

**Date of Issue:**

**Signed:**

Noxious Weed operator

<Insert Name>
[Insert landholder name]
[Insert landholder address details]

WEED CONTROL NOTICE

NOXIOUS WEEDS ACT 1993 – Relevant Section 18

- Property Address:
- Property Area (Ha):
- Description of Land:
- Assessment No:
- Zoning:
- Inspection ID:
- Lot/DP

Following an inspection on [insert date] of the above mentioned land, Council is not satisfied that reasonable and effective measures have been undertaken to control the noxious weed/s described below.

- Common Name
- Botanical Name
- Control Class

You are hereby required as occupier of the land to control such weeds by appropriate means, in accordance with the enclosed Weed Management Plan, you are required to comply with this notice on or before [insert date]

Note:
The Act provides that if any occupier fails to comply with the requirements of a section 18 Notice the occupier shall be liable to such penalty as a prescribed by the Act from time to time. The current penalty is to a maximum of $11,000. The Act provides that any cost and expenses reasonably incurred by the council in the exercise of its power under Section 18 shall on demand be repaid to the Council by the occupier of the land and may be recovered by the Council as a debt in a Court. Council can also issue a penalty infringement notice of $200 for each offence including failure to comply with this Notice

Appeal:
As occupier of the land, you may appeal against this notice to the Land and Environment Court within 28 days for its amendment or revocation (Section 25).
Notice is hereby given that it is intended to enter the above mentioned land for re-inspection purposes on [insert date]. If this date is not suitable for you, please contact me to arrange an alternate date.

Date of Issue:  

Signed:  

Noxious Weed Operator

<Insert Name>
[insert landholder name]
[insert landholder address details]

PROPERTY INSPECTION FOR NOXIOUS WEEDS – CONTROLLED INFESTATION REPORT

NOXIOUS WEEDS ACT 1993 – Relevant Sections 44, 45

- Property Address:
- Property Area (Ha):
- Description of Land:
- Assessment No:
- Zoning:
- Inspection ID:
- Lot/DP

Following re-inspection on [insert date] of the above mentioned land, Council is pleased to advise that the control program you have adopted has been successful in controlling the weed infestation previously found on your property.

We appreciate your efforts in controlling noxious weeds within this district, and trust you will continue with the program that has achieved these results.
Date of Issue: 

Signed:  

Noxious Weed Operator

<Insert Name>
Dear Landholder

As you have failed to control noxious weeds on your land, as described, in accordance with the provisions of the Noxious Weeds Act 1993 No. 11, you are hereby given notice that an authorised person will enter your land and carry out control as stated on the attached notice.

The herbicide [insert details] will be used and a copy of the label and material safety data sheet is included for your information.

Your attention is drawn to the special precautions, especially those pertaining to the withholding and residual periods.

Council would like the opportunity to discuss these special precautions with you prior to the action being taken. Council regrets having to take this action, but acknowledges that it has a duty of care as well as a legal responsibility to control noxious weeds.

Please contact <Insert Name> by telephoning < > Monday to Friday from 7.30am – 4.30pm regarding this matter.

Date of Issue: <Insert Name>

Signed: General Manager

<Insert Name>
NOTICE OF ENTRY AND CONTROL OF NOXIOUS WEEDS

NOXIOUS WEEDS ACT 1993 – Relevant Sections 20, 43, 45

- Property Address: 
- Property Area (Ha): 
- Description of Land: 
- Assessment No: 
  - Zoning: 
  - Inspection ID: 
  - Lot/DP 
- Common Name | Botanical Name | Weed Class | Degree of Infestation | Area Infested (Ha)

Following an inspection on [Insert Date] by Council’s Noxious Weeds Operator, it was noted that you have failed to comply with the Weed Control Notice in accordance with the Act.

Council now hereby gives notice that an authorised person(s) in accordance with the above Sections of the Act will enter your land as described above on [Insert Date]

Entry will continue every consecutive day thereafter, until the control of the noxious weed has been completed.

- Date of Issue: 
- Signed: 
- General Manager

Note:

Section 26(3) of the Act provides that: the amount of any expenses due and payable may be recovered by the Minister or the local control authority as a debt in a court of competent jurisdiction.
[insert landholder name]  
[insert landholder address details]

**RECORD OF ENTRY TO CONTROL NOXIOUS WEEDS**

**NOXIOUS WEEDS ACT 1993 – Relevant Sections 20, 43**

- Property Address:  
- Property Area (Ha):  
- Description of Land:  
- Assessment No:  
- Zoning:  
- Lot/DP:  

This is a record of our inspector, <Insert Name> (or persons under his control) entering the above mentioned property for the purposes of controlling the noxious weeds as listed. These works were performed on and after [insert date] in the manner described below. If you require further details please contact our inspector on < > from 7.30am to 4.30pm Monday to Friday.

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Botanical Name</th>
<th>Weed Class</th>
<th>Treated Area (Ha)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
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<table>
<thead>
<tr>
<th>Method of Control used:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Equipment used:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Man Hours:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Chemicals Applied</th>
<th>Quantity (L)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Date of Issue: 
Signed: 

Noxious Weed Operator

<Insert Name>