

Summary of functions proposed to be delegated by Tweed Shire Council as a local control authority under *Noxious Weeds Act 1993*

Section	Summary	Delegate
-	All powers and functions capable of being delegated.	Rous County Council General Manager
12	Issue a written notice to require the owner of certain land to provide particular information about the land.	Manager Operations Manager Weeds Services
18	Issue, amend or revoke a weed control notice.	Manager Operations Manager Weeds Services
18A	Issue notice of a proposed weed control notice.	Manager Operations Manager Weeds Services
20	Authorise noxious weed control by the local control authority after a weed control notice has not been complied with.	Manager Operations Manager Weeds Services (limited to the issue of a notice prior to taking action)
36A	Require the owner or occupier of land to remove any animals from any part of the land and to prevent animals from entering any part of the land for a specified period (in relation to works under section 20). Temporarily close or obstruct certain public or private roads while measures to control noxious weeds are being taken on land adjacent to those roads. Temporarily close to navigation, or obstruct navigation in, any waters while measures to control noxious weeds are being taken in those waters. Erect notices to warn people not to enter on, or remain on, any land on which measures are being taken to control noxious weed.	Manager Operations Manager Weeds Services
41	Appoint inspectors.	Manager Operations
45	Give notice of entry.	Manager Operations Manager Weeds Services Noxious Weeds Officer (excluding section 45(2)(b))
64	Issue a certificate as to weed control notices, expenses and charges on land.	Manager Operations Manager Weeds Services

Applicable Sections of the Noxious Weeds Act 1993

12 Private occupiers of land must control noxious weeds on land

- (1) An occupier (other than a public authority or a local control authority) of land to which a weed control order applies must control noxious weeds on the land as required under the order.

Maximum penalty: 40 penalty units.

Note : If an occupier fails to comply with obligations under a weed control order, those obligations may be enforced against the owner of the land as well as the occupier by a weed control notice issued under section 18.

- (2) A local control authority may, by written notice, require the owner of land (other than a public authority or a local control authority) to which a weed control order applies to provide the following information in relation to the land:
 - (a) the name and contact details of the occupier of the land or any part of the land,
 - (b) a description of the land occupied by the occupier.
- (3) The notice must specify the manner in which, and may specify a reasonable time by which, the information must be provided.
- (4) A person who, without reasonable excuse, fails to comply with a requirement of a notice under this section is guilty of an offence.

Maximum penalty: 20 penalty units.

18 Local control authority may require owners or occupiers of land (other than public authorities or other local control authorities) to control noxious weeds

- (1) A local control authority may, by notice (a "**weed control notice**") given to an owner or occupier of land, require the owner or occupier to carry out any of the occupier's obligations to control noxious weeds on that land as required under a weed control order.
- (2) The notice may specify the time (not being less than 14 days) within which action is to be taken.
- (3) A notice (an "**emergency weed control notice**") may require compliance within a shorter time (not being less than 24 hours) if the notice relates to obligations under an emergency weed control order.
- (4) The local control authority may give a [weed control notice](#) only if satisfied that an occupier has failed to carry out any of his or her obligations under this Act to control noxious weeds.
- (5) A local control authority may by notice revoke or amend a [weed control notice](#) given by the authority.
- (6) A local control authority may not give a [weed control notice](#) to a public authority or another local control authority.

- (7) An owner of land who is not the occupier of the land may, at all reasonable times, and after giving reasonable notice to the occupier, enter the land for the purpose of complying with a [weed control notice](#).
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18A Prior notice of [weed control notice](#)

- (1) A local control authority must give prior notice of a proposed [weed control notice](#) (other than an [emergency weed control notice](#)) to the owner or occupier to whom it is to be given.
- (2) The notice procedure is as follows:
- (a) the local control authority must give notice to the owner or occupier of the terms of the proposed notice and the period within which action must be taken,
 - (b) the notice must specify a period (being not less than 7 days) within which submissions about the proposed notice may be made to the local control authority,
 - (c) the local control authority must consider any submissions made by or on behalf of an owner or occupier,
 - (d) the local control authority must determine whether to proceed with the proposed notice and, if proceeding, whether to change its terms.
- (3) A local control authority must, if practicable, give prior oral or written notice of an [emergency weed control notice](#) to the owner or occupier to whom it is to be given.
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20 Noxious weed control by local control authority after notice not complied with

- (1) A local control authority may control noxious weeds on land subject to a weed control order if the owner or occupier fails, or a predecessor in title to the owner or occupier has failed, to comply with a [weed control notice](#) given in accordance with sections 18 and 18A.
- (2) Persons authorised in writing by a local control authority may control noxious weeds on behalf of the local control authority under this section and may enter premises for that purpose.
Note : See Division 1 of Part 5 (sections 41-55) for provisions about powers of entry.
- (3) A local control authority must give not less than 24 hours' notice of any proposed control of noxious weeds under this section to the owner or occupier of the land concerned, except where an [emergency weed control notice](#) has been given.
- (4) If an [emergency weed control notice](#) has been given, a local control authority must, if practicable, give prior oral or written notice to the owner or occupier of the land concerned of any proposed control of noxious weeds under this section.
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36 Noxious weed control functions of local control authorities

A local control authority has the following noxious weed control functions in relation to the area for which it is the local control authority (the "**local area**"):

- (a) responsibility for the control of noxious weeds by occupiers of land (other than public authorities or local control authorities),
 - (b) control of noxious weeds on land owned or occupied by the local control authority and on certain roads and watercourses, rivers or inland waters as provided by this Act,
 - (c) to ensure, so far as practicable, that owners and occupiers of land (other than public authorities or other local control authorities) carry out obligations to control noxious weeds imposed under this Act,
 - (d) to develop, implement, co-ordinate and review noxious weed control policies and noxious weed control programs,
 - (e) inspection of land within the [local area](#) in connection with its noxious weed control functions,
 - (f) to report, at the request of the Minister, on the carrying out of the local control authority's functions under this Act,
 - (g) to co-operate with local control authorities of adjoining areas to control noxious weeds, where appropriate,
 - (h) any other functions that are conferred or imposed on the local control authority by or under this Act.
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36A Temporary restrictions during noxious weed control

- (1) The purpose of this section is to enable a local control authority to impose temporary restrictions:
 - (a) to enable control measures for noxious weeds to be undertaken in accordance with this Act, or
 - (b) to protect people and animals from risks to their health and safety arising from measures taken to control noxious weeds in accordance with this Act.
- (2) A local control authority may require the owner or occupier of land to remove any animals from any part of the land and to prevent animals from entering any part of the land for a specified period. This subsection applies only if the authority is acting under section 20 because a weed control notice has not been complied with.
- (3) A local control authority may temporarily close or obstruct public or private roads (other than any State highway, freeway, tollway or State work within the meaning of the [Roads Act 1993](#)) while measures to control noxious weeds are being taken on land adjacent to those roads.
- (4) A local control authority may temporarily close to navigation, or obstruct navigation in, any waters while measures to control noxious weeds are being taken in those waters.
- (5) A local control authority may erect notices to warn people not to enter on, or remain on, any land on which measures are being taken to control noxious weeds.

- (6) An inspector appointed by a local control authority may give such directions, or take such steps, as are necessary in order to enable the local authority to exercise its functions under this section.
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41 Inspectors

- (1) A local control authority may appoint inspectors for the purposes of this Act.
- (2) An inspector has the functions conferred or imposed on inspectors by or under this Act.
- (3) An inspector appointed by a local control authority may not exercise any functions under this Act outside the local area of the authority.
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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 or within a period 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.
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64 Certificate as to weed control notices, expenses and charges on land

- (1) A person may apply to a local control authority for a certificate as to weed control notices affecting particular land and as to any outstanding expenses payable to the authority or any resulting charge on the land.
- (2) The application is to be in the approved form and is to be accompanied by the fee approved by the local control authority, being a fee not exceeding the maximum amount (if any) prescribed by the regulations.
- (3) On an application being made in accordance with this section, the local control authority is to issue a certificate to the applicant stating the following matters:
- (a) whether there are in force any weed control notices issued by or on behalf of the authority or the Minister that affect the land,
 - (b) the amounts of expenses due or payable to the authority under this Act in connection with any weed control notice given by the authority that affects the land and any subsequent action to control noxious weeds taken by the authority,
 - (c) whether the land is subject to any charge arising out of the control of noxious weeds and the amount of any such charge.

- (4) The production of the certificate is taken for all purposes to be conclusive proof in favour of a purchaser for value in good faith of the matters certified.
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68 Delegation by local control authorities

A local control authority may delegate to a person any of the local control authority's functions under this Act (other than this power of delegation) but only under this power of delegation.
