

Policy

Biosecurity

Responsible Manager (Title)	Manager Open Spaces and Facilities		
Adopted by Council	Date 23 February	Minute Number: 6c.21.024	
File Reference Number	ECM: 2211671	Version 1.0	Review Due: February 2026
Document(s) this policy Supersedes	General Noxious Weeds Policy Dated 1 March 2006		
Community Plan Linkage	4 Environment		
	4.1 We will preserve and enhance our natural environment		
	4.1.1 Managing our coastal zone, waterways, catchments and floodplains in an ecologically sustainable manner		

1 Purpose

Weeds are a major threat to our natural environments, threatening the survival of hundreds of native plants and animals in New South Wales (NSW) alone. They also impact on the production of food, human health through allergies and asthma, disrupt and curtail recreational activities and add substantial costs within our economy.

The objective of the policy is to establish a framework for the management of weeds that will achieve the greatest outcomes in terms of preventing weeds from establishing, eradicating new weeds and minimising the impact of established weeds. This is to be done within the context of shared responsibility, sustainable landscapes, collaboration and innovation.

2 Definitions

Nil

3 Background/legislative requirements

This policy covers all land within the local government area under Clarence Valley Council control.

Clarence Valley Council is a Local Control Authority (weeds only) under The Act. In accordance with section 371 of The Act, Council has the “following functions over the land in which it operates:

- (a) the prevention, elimination, minimisation and management of the biosecurity risk posed or likely to be posed by weeds,
- (b) to develop, implement, co-ordinate and review weed control programs
- (c) to inspect land in connection with its weed control functions
- (d) to keep records about the exercise of the local control authority’s functions under this Act
- (e) to report to the Secretary about the exercise of the local controls authority’s functions under this Act”

The Act applies equally to all land in the state, regardless of whether it is publicly or privately owned and is premised on the concept of risk, so that weed management investment and response is appropriate to the risk.

4 Policy statement

This policy outlines Council’s weed management responsibilities and obligations under the *NSW Biosecurity Act 2015* (hereafter referred to as The Act). It also gives Council’s positions on community concerns and expectations around weed management, and provides guidance for various Council programs.

5 Implementation

5.1 Responsibilities

Under the Act, Clarence Valley Council as the relevant Local Control Authority has the legal obligation to manage the biosecurity risk posed or likely to be posed to human health, the economy, the community and the environment by priority weeds.

Council will meet these obligations by:

- controlling priority weeds on Council managed land where feasible;
- working with private landowners and occupiers, and other public utility land owners and occupiers to ensure they too carry out their individual obligations as legislated under The Act to prevent, eliminate or minimise the biosecurity risk posed or likely to be posed by priority weeds; and
- appointing suitably qualified officers in the role of *Authorised Officers* as defined by The Act.

5.2 How are Weeds Prioritised?

The Act itself is tenure neutral, unlike the previous *Noxious Weeds Act 1993* (NSW) there is no scheduled “list” of weeds. As such all weeds need to be categorised by the risk they pose in relation to human health and public amenity, the natural environment and/or agricultural production.

This policy is also guided by the North Coast Regional Strategic Weed Management Plan 2017-2022 (hereafter referred to as The Plan) of which the ‘Invasion Curve’ is a key concept (see Figure 1). This curve illustrates the relationship between the stages of weed invasion, the level of effective control that could be expected and the likely return. As such, Clarence Valley Council resources are prioritised towards the weed. As well as the plan Council is also guided by the:

- North Coast High Risk Weed Species Sites and Pathways Inspection Plan 2020-2022
- North Coast New Weed Incursion and Rapid Response Regional Plan 2019-2024
- North Coast Weed Biosecurity Inspection and Compliance Procedure 2020-2024.

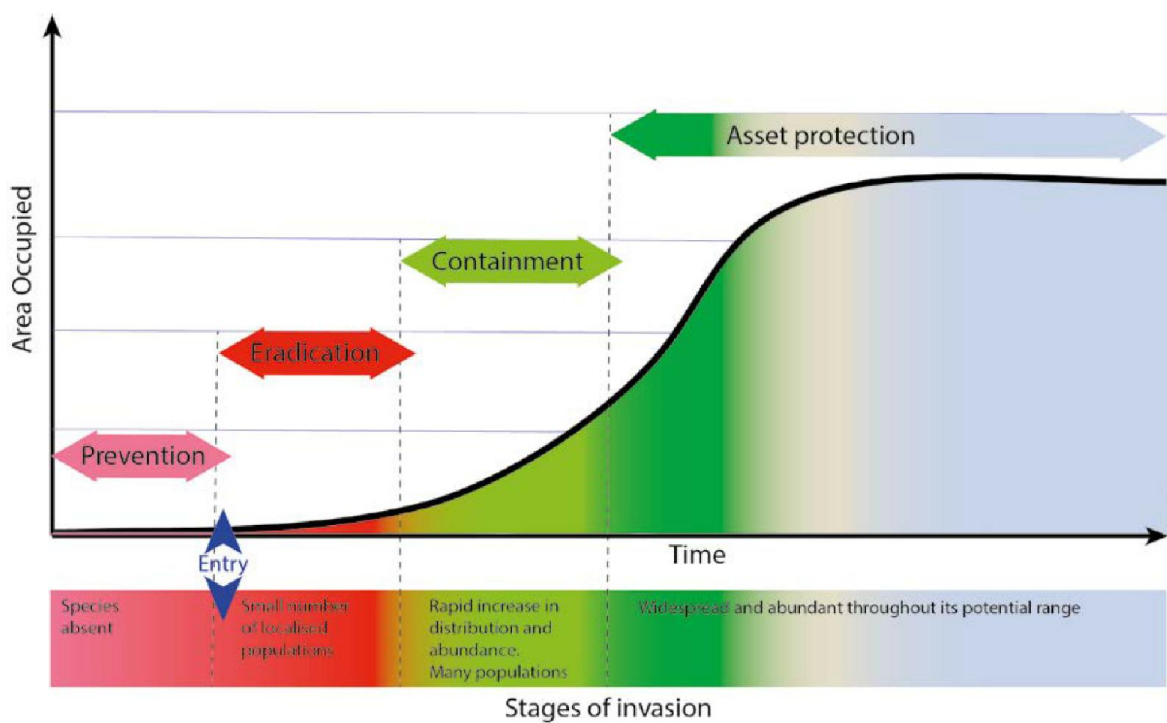


Figure 1 - The Weed Invasion Curve

Management activities where the return on investment is highest; that is at the beginning of the invasion curve before weeds dominate the landscape.

In addition to the 'Invasion Curve', weeds need to be prioritised utilising a consistent, robust and systematic process to achieve the greatest benefit of risk management. , Clarence Valley Council will adopt the approach recommended by the NSW Department of Primary Industries which considers three guiding principles:

NSW Weed Risk Assessment System – based on a nationally adopted standard this method objectively measures a weed's risk potential.

Externality Test – using a 'Biosecurity Threat Decision Tree' this method determines if a weed warrants government intervention under normal circumstances. Essentially, the cost of weed management intervention must be outweighed by the benefit to the environment and the community.

The Program Rationale – this should demonstrate the link to other planning documents and instruments, resourcing capacity and other investment preferences in the region and, existing management programs.

The Plan indicates State and Regional Priority Weeds and provides the objectives and measures of how they should be managed based on their assessed risk. These weeds can be found in Schedules 1 and 2 of this policy respectively.

The Plan also identifies other weeds of regional concern, but doesn't provide any management objectives and measures as these are usually widespread or already established weeds that need to be managed at a local level. Schedule 3 indicates some of these local priority weeds that might be managed in the Clarence Valley Council area, based on local circumstances and local risk assessment.

Any biosecurity risk implementation must be reasonably practicable as defined in Section 16 of the Act. Reasonably practicable, in relation to the prevention, elimination or minimisation of a biosecurity risk means that which is, or was at a particular time, reasonably able to be done, taking into account and weighing up all relevant matters including:

- a) the biosecurity risk concerned;
- b) the degree of biosecurity impact that arises, or might arise, from the biosecurity risk;
- c) what the person concerned knows, or ought reasonably to know, about the biosecurity risk and the ways of preventing, eliminating or minimising the risk;

- d) the availability and suitability of ways to prevent, eliminate or minimise the biosecurity risk, and
- e) the cost associated with available ways of preventing, eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

5.3 Weed Management on Council land and land under the care and control of Council

Clarence Valley Council will ensure compliance with The Act for its local government area for State (Schedule 1) and/or Regional (Schedule 2) priority weeds where feasible in the following ways:

- a) We will prevent, eliminate or contain priority weeds by direct management on Council owned land.
- b) We will develop, coordinate and measure the success of weed management programs by creating and maintaining policy, processes, operational plans and regular reporting.
- c) We will maintain records on our control, education and inspection functions and make these available to NSW Department of Primary Industries and LLS and the community as required.

In addition, Council may control local priority weeds (Schedule 3) on Council land and land it controls in accordance with the weed management priorities listed below where feasible:

- In natural areas (As per Plan of Management) in accordance with the following priorities where weeds impact on:
 - threatened species and communities;
 - bushland areas in good condition;
 - local bushland areas maintained by bush care volunteers;
 - the health and safety of recreational users; and/or
 - aesthetic values.
- In parks and sportsgrounds in accordance with the following priorities; were weeds impact on:
 - the health and safety of recreational users;
 - use and enjoyment of recreational users;
 - native vegetation or natural areas;
 - aesthetic values.
- In road reserves, car parks, pathways, business centres in accordance with the following priorities; were weeds impact on:

- driver visibility and safety;
 - the health and safety of pedestrian users;
 - native vegetation or natural areas; and/or
 - aesthetic values.
- Ensure weed removal and control is an integral part of the establishment and maintenance stages of new capital and project works where feasible.
 - Undertake weed eradication in conjunction with planned landscape refurbishment within parks, sportsgrounds, road reserves, business centres, car parks and pathways where feasible.
 - Participate in relevant catchment and regional weed forums, plans and projects.

5.4 Weed management on private land and land under the care and control of Public Utilities, agencies or departments

Council's Authorised Officers will endeavor to inspect premises or lands that are likely of hosting a priority weed/s as indicated in Schedules 1 and 2. They may also, from time-to-time, inspect premises or land that may share a common border with a threatened community or other valued natural area to help ensure they are protected.

Should an Authorised Officer inspect a private or public property (not owned or controlled by Council) that includes a priority weed, then a property record will be generated for the premises. If the weed species is high risk, then education, followed by enforcement of the regulatory provisions of The Act will proceed.

If the weed species is low risk, the Authorised Officer will proceed with education but generally not regulatory enforcement under the Act, unless in the opinion of the Authorised Officer, one or more of the following conditions are occurring:

- The weed species is having a proven health impact on a person directly adjoining the land. Proof of this would be a written notice from an appropriate licenced medical health professional.
- Council's Biosecurity Operational Plan has specifically targeted a weed eradication program project focused on a priority weed or weeds in the particular local area or catchment, for example, a priority weed eradication project within a particular reserve or park.
- A decision is made by the Authorised Officer in relation to the General Biosecurity Duty that the weed's are posing a significant risk to an asset and warrants the attention of further actions.

Authorised Officers or other Council staff involved in weed management will not become involved in any dispute of a pure civil nature.

If an Authorised Officer is requested to inspect a property boundary shared by two or more private property owners that includes priority weeds then a property record will be generated for the properties. If the weed species is high risk, then education, followed by enforcement of the Biosecurity Act 2015 NSW will proceed as if necessary.

If the weed species is low risk, Authorised Officers or other Council staff will proceed with education, but not enforcement under The Act. The property owners or occupants will also be informed of their options for redress under this policy.

For disputes between property owners the preferred option is to contact NSW Community Justice Centre (<http://www.cjc.nsw.gov.au>) for free advice and mediation. Taking a neighbor to court should always be a last resort.

If issues between neighbours cannot be resolved through direct engagement or mediation, another avenue is the legislation, Trees Disputes between neighbours Act 2006 and its Regulations. This Act sets out the circumstances where the Act applies and provides possible actions. The regulations state that for the purposes of the Act that Bamboo and any plant that is a vine are defined as trees.

5.5 Weed management in places where plants are sold (nurseries, florists and markets)

Council staff will be vigilant when purchasing plants for Councils Parks and Gardens that they are not listed in the plan.

Authorised Officers will visit private nurseries or other premises in Council's area trading plants or plant material to inspect for priority weeds or priority weed material for the purpose of education, and where needed enforcement of obligations applicable to traders in respect to priority weeds listed in Schedules 1,2 and 3.

5.6 The general biosecurity duty and regulatory functions

The General Biosecurity Duty (GBD) is a key feature of The Act. Simply put, it means that all private and public land managers (or anyone who deals with weeds) must prevent, eliminate or minimise the risk those weeds present. To assist the community to meet their requirements, Clarence Valley Council has developed this policy.

Authority for implementation of this policy is delegated to Clarence Valley Council's Authorised Biosecurity Officer's in accordance with the provisions of The Act.

An Authorised Officer is a person who has been appointed by the Council's General Manager to manage weeds biosecurity risks by performing certain functions. These include:

- inspecting and investigating the location weeds, providing weed education, maintaining related records as per figure 2 : and
- enforcing compliance with The Act when necessary. Before enforcement the Biosecurity Officer will be guided by the Risk Matrix in figure 3.

5.7 Inspection Process Flow Chart (Depicting how some of these functions will be carried out)

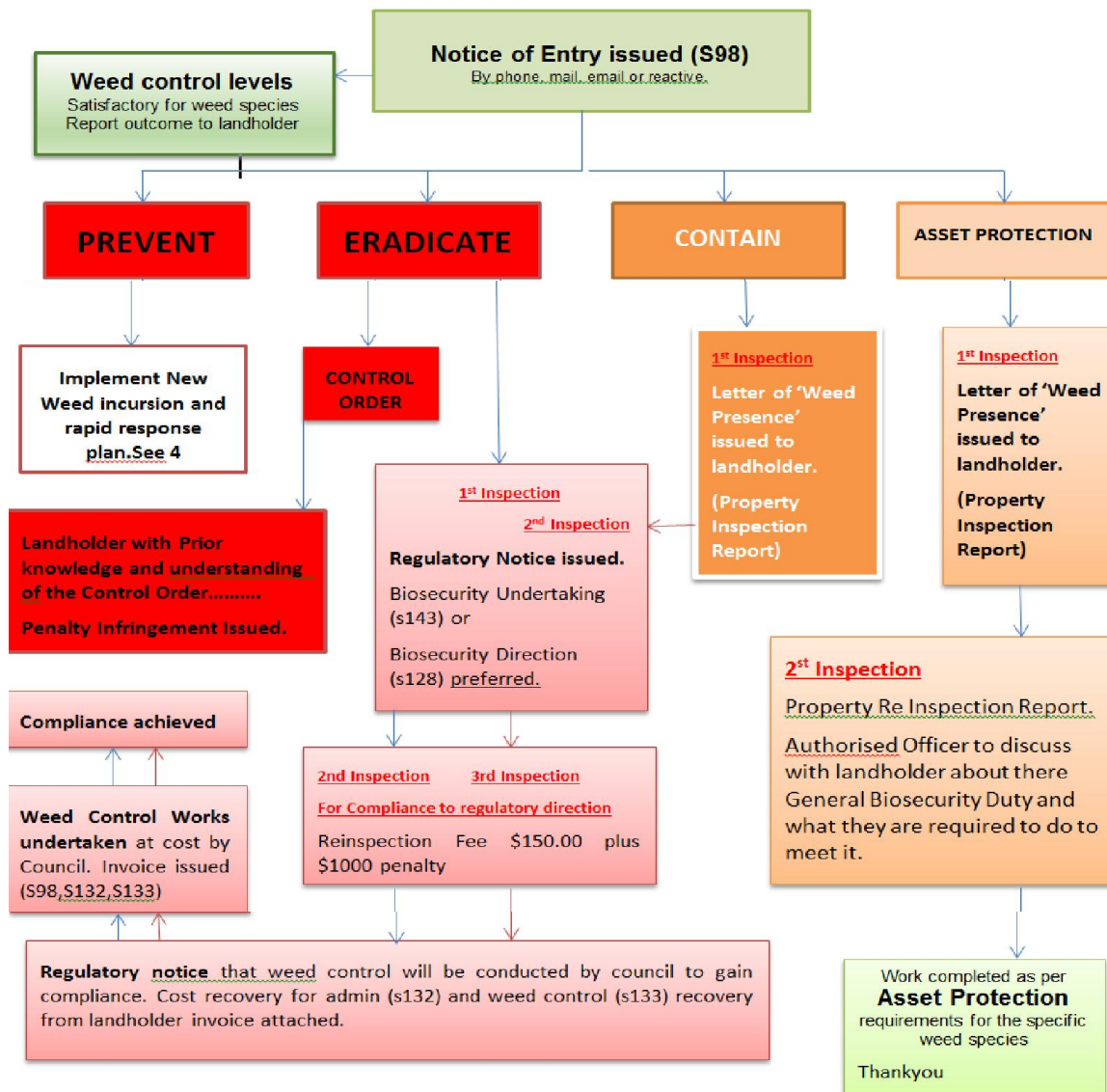


Figure 2 – Inspection Process

5.8 Weed Biosecurity Risk Matrix

Note: Periodic reviews of Council’s Weed Biosecurity Risk Matrix will be undertaken using intelligence collated from site inspections and case management with reference to state and regional priority weeds to determine whether any serious patterns are emerging which may warrant re-categorising the risk levels of weed biosecurity breaches.

Weed Biosecurity Risk Matrix		Biosecurity Impact				
		Negligible Watch	Minor Asset protection Contain - widespread on property and/or neighbouring property	Moderate Contain - isolated on property Eradicate - isolated on property	Major Eradicate - widespread or increased risk of spreading	Severe Prevent
Culpability of Offender	Certain Advice persistently ignored Repeated failure to comply Intentional /reckless Uncontactable Not willing to cooperate Not willing to comply/ chosen not to comply Likely to reoffend	Medium	High	High	Extreme	Extreme
	Very Likely Advice persistently ignored Repeated failure to comply Intentional/ reckless Uncontactable Uncooperative/indifferent Not willing to comply Likely to reoffend Mitigating factors	Medium	Medium	High	Extreme	Extreme
	Possible Advice ignored Repeated failure to comply Uncooperative/ indifferent Uncontactable May reoffend Mitigating factors	Low	Medium	Medium	High	Extreme
	Unlikely Advice ignored Failed to comply Willing to comply Unlikely to reoffend Mitigating factors	Low	Low	Medium	Medium	High
	Rare No prior warnings Unintentional Willing to comply Unlikely to reoffend Mitigating factors	Low	Low	Low	Medium	High
Risk Level		Recommended Actions				

Weed	Biosecurity Impact
Extreme	Court proceeding to prosecute Court proceeding to enforce undertaking Take action and recover costs
High	Penalty notice Take action and recover costs Biosecurity direction
Medium	Biosecurity direction Biosecurity undertaking
Low	Advice and persuasion Education

Figure 3 – Biosecurity Risk Matrix

5.9 Financial Constraints

As Clarence Valley Council has a limited budget, we seek to maximise the efficiency of our funding by planning our expenditure to meet the highest priority outcomes of the NSW Biosecurity Act 2015 and to limit reactive activity. The priorities described by this policy will be detailed annually in the Council’s annual Natural Resource Management (Vegetation Management) Program and reported against quarterly or half yearly.

As well as the Council budget, Councils Natural Resource Management team apply for additional and when available Government funding/grants from the Crown Reserves Improvement Fund (CRIF), Local Land Services (LLS), Department of Primary Industries (DPI) and other departments when available to assist in priority weed management on Government land, privately owned land, high risk sites and pathways for weeds listed for the Clarence Council area in the plan.

5.10 Other Weeds

If a weed is not listed in Schedule 1, 2 or 3 it is not considered to warrant the priority attention and resources of Council. However, it may still be deemed a biosecurity risk by an Authorised Officer and control, education or enforcement action may be taken if the process described in this policy for determining priority is followed. Any such weed should be included in the Schedule 3 of this policy in due course and might warrant further scrutiny at the state or regional level.

If a new weed is suspected of being found, then the process outlined in the North Coast New Weed Incursion and Rapid Response Plan 2019-2024 will be followed.

5.11 Councilor Involvement in Compliance

From time to time a Councilor may be requested to intervene in a compliance process which is underway with the authority of The Act. A Councilor should refer these instances to the General Manager. The General Manager will investigate the case to ensure it aligns with adopted policy and process.

5.12 Reporting Notifiable Weeds

A notifiable weed is a weed which lists a notification requirement in the guidelines for its management under Schedules 1, 2 and 3. All notifiable weeds within Clarence Valley Council's jurisdiction must be reported either by:

- Phone;
- in-person directly to Council's Authorised Officer;
- email; or by
- post.

5.13 Policy Review

Schedules 1,2 and 3 will be reviewed annually as part of the development of Council's annual Natural Resource Management (Vegetation Management) Program.

The full policy will be reviewed every 5 years.

Schedule 1: State Priority Weeds

Weeds listed in Appendix 1.1 in the North Coast Regional Strategic Weed Management Plan 2017-2022.

Schedule 2: Regional Priority Weeds

Weeds listed in Appendix 1.2 in the North Coast Regional Strategic Weed Management Plan 2017-2022

Schedule 3: Local Priority Weeds

Weeds determined by Council to be of local concern (may included weeds from Appendix 2 in the North Coast Regional Strategic Weed Management Plan 2017-2022.

6 Appeal/objections process

If a landowner disagrees with an Authorised Officer's decision, they should in the first instance write to the General Manager, Clarence Valley Council, Locked Bag 23, Grafton, NSW, 2460 and state the issue and circumstance.

As stated above, for disputes between property owners the preferred option is to contact NSW Community Justice Centre (<http://www.cjc.nsw.gov.au>) for free advice and mediation. Taking a neighbour to court should always be a last resort.

6.1 Councillor Involvement in Compliance

From time to time a Councilor may be requested to intervene in a compliance process which is underway with the authority of The Act. A Councilor should refer these instances to the General Manager. The General Manager will investigate the case to ensure it aligns with adopted policy and process.

7 Related Documents

- NSW Biosecurity Act 2015 No24
- NSW Department of Primary Industries
- North Coast High Risk Weed Species Sites and Pathways Inspection Plan 2020-2022
- North Coast Local Lands Services.
- North Coast New Weed Incursion and Rapid Response Regional Plan 2019-2024
- North Coast Regional Strategic Weed Management Plan 2017-2022
- North Coast Weed Biosecurity Inspection and Compliance Procedure 2020-2024
- Rous County Council

8 Attachments

Nil