

UPPER MACQUARIE COUNTY COUNCIL

The noxious weeds control authority for the areas of Bathurst Regional Council, Blayney and Oberon Shire Councils and the Lithgow City Council



ARE YOU WISE TO THE DEFICIENCIES OF SECTION 64 CERTIFICATES?

IMPORTANT INFORMATION FOR SOLICITORS, CONVEYANCERS AND PURCHASERS .

Enclosed is a Certificate under Section 64 of the *Noxious Weeds Act 1993* for which you applied.

A Section 64 Certificate is required by the Act to contain information about the following matters –

- Whether there are any weed control notices that affect the land;
 - Any amounts payable to the County Council in connection with any weed control notices or any action to control noxious weeds on the land; and
 - Whether the land is subject to any charge arising out of the control of noxious weeds on the land.
- A Section 64 Certificate provides protection in respect of the matters which it is required to contain.

You need to be aware that a Section 64 Certificate is not required to contain direct advice about whether or not there are noxious weeds on land.

In fact, it cannot do so!

The Council is prevented by privacy laws from disclosing to a purchaser, without the consent of the owner, any information other than that set out in Section 64 of the Act. This is not a matter within the Council's control.

If the certificate does not disclose that there are outstanding weed control notices you will not know from the Section 64 Certificate if there are noxious weeds on the land.

Most Weed Control Authorities do not issue weed control notices as a matter of course; more effective control of noxious weeds is achieved in other ways.

The Upper Macquarie County Council issues very few weed control notices.



Gorse



Serrated tussock infestation

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Privet and gorse photographs from
Weeds of Blue Mountains Bushland website

The Council generally relies on Property Weed Management Plans for the control of noxious weeds. These plans are prepared by the occupier of the land in cooperation with the Council. If there are noxious weeds on land there is a legal requirement that there be an approved PWMPP for the land. The law is a little different in urban areas.



Large leaf privet

Don't underestimate the importance of noxious weeds for land purchasers!

Weeds cost Australia \$3.9 billion per year.

Noxious weeds can be a direct cost to landholders in a number of ways.

- An inflated purchase price that does not take account of noxious weed infestations.
- A reduced price on resale if noxious weed infestations are not controlled.
- Cost of control measures.

Production losses if the land is used for primary production. It does not matter whether land is rural or urban: the law requires that noxious weeds be controlled and there are severe penalties if they are not.

So, what should I do to protect my client?

Firstly, get the owner of the land to consent, in writing, to the Council disclosing whatever information it has about noxious weeds on the land. This will include whether or not there is an approved PWMPP for the land and whether the program of work contained in the plan has been complied with. As you already have a Section 64 Certificate the Council will provide this additional information at a minimal cost of \$71.50.

Secondly, obtain an inspection and written report on the noxious weed status of the land. You should have a competent person do the inspection and prepare the report.

The Council provides this service but if you want us to do it you will need the written consent of the owner. As you have already paid for a Section 64 Certificate (\$50) and if you also request a disclosure certificate (\$71.50) the cost of an inspection and report in towns and villages will be a fixed rate of \$49.50. If the land is outside a town or village contact us for a quote before applying.

If you require any further advice or assistance please contact us: we are here to help.