

# LOCAL ORDERS POLICY

**Responsible Department:** Planning and Sustainability  
**Responsible Section:** Regulatory Compliance  
**Responsible Officer:** Manager Regulatory Compliance

## Objective

- To guide Narrabri Shire Council (Council) when enacting its regulatory responsibilities.
- To supplement provisions of the *Local Government Act 1993* (NSW) and the *Local Government (General) Regulation 2021* (NSW) by specifying the criteria which Council must take into consideration in determining whether to issue an Order under Sections 124 or 125 of the *Local Government Act 1993* (NSW).

## Introduction

This Policy is prepared and adopted pursuant to the requirements established by the *Local Government Act 1993* (NSW). The Policy is designed to outline the criteria which Council must take into consideration in determining whether to give an order under Section 124 of the *Local Government Act 1993* (NSW). This Policy does not apply to orders issued in accordance with Order 22A in the Table in Section 124 of the *Local Government Act 1993* (NSW). In areas where it is considered that the circumstances for the Order are self-explanatory or do not apply, no additional criteria have been provided.

## Policy

### 1. Definitions

Term	Meaning
<b>Orders Schedule</b>	Is outlined by the Table within section 124 of the <i>Local Government Act 1993</i> (NSW).
<b>Authorised Officer</b>	A Council officer with delegated authority to authorise certain Council officers under relevant legislation in order for them to carry out their duties and take necessary action. All Council officers carrying out regulatory inspections on private land will: <ul style="list-style-type: none"> <li>• Have delegation to enter premises and carry out investigations as specified in Council's Instrument of Delegations and sub delegations;</li> <li>• Be authorised by Council where this is required under specific legislation to permit inspections on private property;</li> <li>• Carry photographic identification demonstrating authorisation to enter premises and private lands under each specific Act; and</li> <li>• Carry documentation or certificates of authority where required by the legislation being implemented</li> </ul>
<b>Flocculation (or Flocked)</b>	A water treatment process where solids form larger clusters, or flocs, to be removed from water. This process can happen spontaneously, or with the help of chemical agents.

## 2. Discretion

- 2.1. The giving of an order is not mandatory and is at the discretion of the General Manager (or delegated officer) whether the circumstances meet the applicable criteria for that order.
- 2.2. The criteria shall only apply to a person if Council serves an Order, under Section 124 of the *Local Government Act 1993* (NSW), to that effect on that person.

## 3. Order 5(e) - Hairdresser Shops Or Beauty Salon

- 3.1. In addition to the standards prescribed by the *Local Government (General) Regulation 2021* (NSW) and other relevant legislation the following are to be abided by where applicable:
  - (a) Current NSW General Industry Requirements for Skin Penetration;
  - (b) AS/NZS 1668 – Mechanical ventilation in buildings;
  - (c) AS/NZS 4815 - Office-based health care facilities;
  - (d) AS/NZS 4031 – Non-reusable containers for the collection of sharp medical items used in health care areas; and
  - (e) AS/NZS 4261 - Reusable containers for the collection of sharp items used in human and animal medical applications.
- 3.2. Hairdresser shops and beauty salons are subject to registration and yearly inspections by Council. Fees and charges (as established in the current Operational Plan) will also apply.

## 4. Order 7 – Fencing of Land

- 4.1. Council will require the installation of fencing where there are conditions that affect public health, safety, or convenience.
- 4.2. Clause 4 will apply to land that is both built upon and not.
- 4.3. Adequate fencing should be erected to:
  - (a) Achieve a clear distinction between private and public land;
  - (b) Adequately restrict access to the private land by unauthorised person(s); and
  - (c) Sufficiently overcome problems or conditions affecting public health, safety, or convenience.
- 4.4. Adequate fencing must:
  - (a) Be structurally sound;
  - (b) Not to be constructed of defective or dangerous materials (such as corrugated iron sheets);
  - (c) Not pose a risk to the public;
  - (d) Not be unsightly and should complement the amenity of the area; and
  - (e) Be between 1.5 and 1.8 metres in height.
- 4.5. Certain fences (such as those constructed of brick or masonry) may require a development approval prior to construction or installation.
- 4.6. Fences erected under this order are to be removed when the land or site is managed so that the conditions affecting public health, safety, or convenience no longer exist.

## 5. Order 8 – Identification of Premises

- 5.1. Orders may be used under this Criteria where premises have a frontage to an entrance from a road and there are no property number(s) (or names) that can readily be seen and understood from the road. Apart from public convenience, identification of premises is vital for swift response by emergency services to locate dwellings.
- 5.2. Premises must be clearly identified by number, or other identification, in a manner that can be understood clearly from the road.
- 5.3. At least one street number of a minimum height of 65 millimetres should be in a position where it is visually prominent from the street, such as on a letterbox, front fence or near a well-lit front entrance.
- 5.4. The street number to be displayed on premises must be the number allocated to the premises by Council.

## 6. Order 9 – Waterholes and Holes

- 6.1. Orders may be used under this Criteria where a hole or waterhole is or may become dangerous to life.
- 6.2. Structures identified under the *Swimming Pools Act 1992 (NSW)* (such as swimming pool, spa, or the like, other than a pool or spa in the course of construction) are not considered a waterhole for the purposes of this Policy.
- 6.3. A hole includes excavations for the purposes of building, where such sites have been abandoned or delayed in construction.
- 6.4. A hole or waterhole will be considered dangerous to life by:
  - (a) Its accessibility;
  - (b) The manner in which it is maintained; or
  - (c) The creation of other likely impediments to public health and safety (such as if a waterhole presents a potential breeding ground for mosquitoes).
- 6.5. A hole or waterhole must not be accessible by the public and must be maintained so the water does not pose a risk to persons health or safety.
- 6.6. Where an Order requires a waterhole or hole to be fenced, the fencing must:
  - (a) Be structurally sound;
  - (b) Not be constructed of defective or dangerous materials (such as corrugated iron sheets);
  - (c) Not pose a safety risk to the public;
  - (d) Not be unsightly and should complement the amenity of the area;
  - (e) Separate the hole or waterhole from any residential building on the premises and from any place (whether public or private) adjoining the premises;
  - (f) Be between a height of 1.5 metres and 1.8 metres;
  - (g) Be constructed of chain wire; and
  - (h) If any gates are present within the fence, be provided with suitable locks.
- 6.7. If the waterhole is required to be emptied, the water must be flocked, or another suitable treatment used, to prevent sediment from leaving the property, which could impact on waterways.

## **7. Order 10 – To remove, stack or cover articles**

- 7.1. Orders may be issued where land is used for storage of articles or matter so as to create or be likely to create unsightly conditions.
- 7.2. Fencing, covering, or screening of articles or matter from view shall only be permitted on premises for which the consent of council has been obtained beforehand for the storage of such articles or matter.
- 7.3. Articles or matter must not be stored in a manner that will create or be likely to create unsightly conditions. Any such articles or matter must be removed, stacked, or covered in an appropriate manner.
- 7.4. Articles or matter that will be deemed unsightly includes but is not limited to:
  - (a) Derelict motor vehicles, caravans, trailers, boats and their components and parts;
  - (b) Machinery, equipment, and appliances;
  - (c) Building materials;
  - (d) Collapsed buildings or structures;
  - (e) Firewood and vegetation;
  - (f) Industrial or commercial waste products;
  - (g) Recycled material;
  - (h) Furniture and household goods; and
  - (i) Other sundry refuse.
- 7.5. Articles or matter required to be removed must be relocated or disposed of in an appropriate manner, such as to an authorised waste/recycling facility.
- 7.6. Articles or matter must be stacked in an appropriate and safe manner.
- 7.7. Articles or matter required to be stacked should be kept to a height of no less than 300 millimetres above ground level and no less than 300 millimetres distance clear of fences, buildings, and walls so as to prevent the likelihood of the harbourage of vermin.
- 7.8. Fences or screens required to be erected must:
  - (a) Be sufficient to shield view from the unsightly articles or matter and must meet requirements as specified in the order;
  - (b) Be structurally sound;
  - (c) Not be constructed of defective or dangerous materials such as corrugated iron sheets;
  - (d) Not pose a safety risk to the public; and
  - (e) Complement the surrounding amenity and not be unsightly.
- 7.9. Fences or screens erected under this order are to be removed when there are no longer any unsightly conditions being created from the storage of articles or matter.

## **8. Order 11 – Environmental Damage**

- 8.1. Orders may be issued under this Criteria where work is carried out on land and has caused or is likely to cause physical damage to the environment, or where physical environmental damage occurs as due to the flow of water on land.
- 8.2. The natural flow of surface/seepage water must not be impeded unless connected to an approved drainage system. Includes work undertaken, or structure erected, without proper approval, that is obstructing or is likely to obstruct, the natural flow of water along any watercourse.

- 8.3. Council has the option to pursue these matters under the *Protection of the Environment Operations Act 1997* (NSW).

## **9. Order 12 – Flow of Surface Water Across Land**

- 9.1. Orders may be issued under this Criteria where water flowing across the surface of land causes or is likely to cause damage to land or buildings.
- 9.2. Surface water across land must not:
- (a) Be artificially controlled, manipulated or impeded; and
  - (b) Be damaging or likely to be damaging to land or a building on the land.
- 9.3. Examples where this order applies include:
- (a) Work undertaken or structure erected that is damaging or is likely to damage other land or a building;
  - (b) Erosion of land is occurring from the flow of surface water;
  - (c) Premises contain defective or insufficient guttering, spouting, downpipes, or roofing;
  - (d) When drainage pipes are not connected to an appropriate stormwater disposal system; and
  - (e) Bunding that prevents the natural flow of surface water.
- 9.4. Roof guttering must be connected to downpipes that are connected to an approved stormwater disposal system.
- 9.5. Paved, cemented or other hard surfaced areas must have surface water diverted to an approved stormwater disposal system to minimise discharge onto adjoining properties.

## **10. Order 15 – Life Threatening or Public Safety Hazards**

- 10.1. Orders may be issued under this Criteria for any activity carried out on premises that constitutes or is likely to constitute a life-threatening hazard or a threat to public health or safety.
- 10.2. Such activity must cease to be conducted or not conducted as specified in the order.

## **11. Order 19 – Tennis Court Use**

- 11.1. Orders may be issued under this Criteria where use of a tennis court creates actual or likely annoyance or is a threat to the safety of neighbours or users of public space.
- 11.2. Whilst Council recognises the benefits and enjoyment gained from the use of tennis courts, the needs of neighbours and the public are also considered in this order.
- 11.3. Lighting of tennis courts must be adequately shielded from the view of neighbouring residents and passing motorists or users of a public place, so as not to cause an annoyance to neighbours or to the public.
- 11.4. Tennis courts and lighting of tennis courts are not permitted for use between the hours of 10:00 pm and 8:00 am, to prevent the annoyance of neighbouring residents.

## **12. Order 20 – Food Handling**

- 12.1. Orders may be issued under this Criteria where food premises, vehicle or article is not in a clean or sanitary condition.

12.2. All premises manufacturing, preparing, storing, selling, transporting, processing or handling food for human consumption must:

- (a) Comply with all relevant legislation and standards, including:
  - (i) *Food Act 2003* (NSW);
  - (ii) *Food Regulation 2015* (NSW); and
  - (iii) Food Standards Code;
- (b) Ensure hygiene standards of premises and operators are adequate and appropriate; and
- (c) Ensure foodstuffs are handled and stored appropriately.

### **13. Order 21 – Keeping Land or Premises in a safe or Healthy Condition**

13.1. Orders may be issued under this Criteria where land or premises are not in a safe or healthy condition.

13.2. An occupier of premises must take reasonable measures to keep the premises free from fleas, rats, mice, and other vermin (except any such animals kept as pets). Rats, mice, and other vermin should be kept under control on land and premises by:

- (a) Not providing places for vermin to harbour, such as overgrown vegetation or accumulated rubbish or refuse;
- (b) Eradicating rats, mice and/or other vermin from premises where necessary to prevent further breeding and infestation, in an approved manner; and
- (c) Not allowing any other conditions on land or in premises which are likely to harbour rats, mice and/or other vermin, for example, not leaving dog/cat food in pet food bowls.

#### **Overgrown Vegetation**

13.3. Dead or live vegetation must not be accumulated so that it is, or is likely to be, a harbourage for vermin or a fire hazard.

13.4. Overgrown vegetation, whether dead or alive, should be cut or slashed and the cuttings disposed of in an approved manner, such as composting in an approved compost bin.

13.5. In clearing overgrown vegetation, it is important not to:

- (a) Effect erosion control;
- (b) Completely remove plants other than weeds;
- (c) Contravene council's tree preservation order; or
- (d) Compromise other environmental concerns.

13.6. Council expects the owner or occupier of premises to maintain grass and lawns approximately 50 millimetres above the ground surface neatly trimmed to paths, curbing and fence lines.

13.7. If grass or weeds exceed a height of 300 millimetres above ground level enforcement action may commence.

13.8. Grass and weeds above this height is considered a likely harbourage for vermin, pest animals and venomous animals, capable of concealing dangerous objects and generally creating unhealthy and unsafe conditions that may result in an order to be issued.

13.9. It is the responsibility of the property owner or occupier to maintain the grassed area between the street boundary and the road verge in a similar condition as described above.

### **Waste or Other Refuse on Premises**

- 13.10. Rubbish or refuse must not be accumulated on premises so that it is likely to be a harbourage for vermin, is unsightly, provides a health or safety risk to the owner(s), occupier(s) of the land or premises, to the public.
- 13.11. All materials, rubbish and vegetative matter required to be disposed of or removed from premises, should be done so in an approved manner, to an authorised waste disposal facility.
- 13.12. All works should be undertaken by an appropriately qualified tradesperson
- 13.13. All works must be completed to the satisfaction of Council.

### **Water Quality in Private Swimming Pools or Spas**

- 13.14. The water quality in private swimming pools/spas premises must be maintained to a standard that provides safe and healthy conditions.
- 13.15. The occupier of premises shall maintain the swimming pool or spa and all fixtures and fittings in a clean and working condition.
- 13.16. Swimming pools and spas must have a filtration system capable of circulating a volume of water equal to the swimming pool's capacity at least every eight (8) hours.
- 13.17. The occupier of premises should use a test kit to monitor the levels of free residual chlorine, total chlorine and pH levels in the swimming pools or spas.
- 13.18. Swimming pools and spas water quality standards required to maintain healthy and safe conditions include:
  - (a) Free residual chlorine – 1.0 mg/L minimum;
  - (b) Total chlorine level should never be more than double the free residual chlorine level;
  - (c) pH level – 7.2 to 7.8; d) Total alkalinity – 60.0 to 100.0 mg/L.
- 13.19. Swimming pool/spa water must be maintained so as not to provide a breeding ground for mosquitoes.

### **Defective Floors, Walls, Ceilings, Windows and Window Glass In Residential Premises**

- 13.20. Premises should be impervious to moisture such as rain, seepage or rising damp as it promotes the growth of mould, decay and unhealthy, unsafe and unsanitary conditions.
- 13.21. Ceilings, walls, floors, cladding, window frames and window glass of premises must be maintained at all times to an acceptable standard.
- 13.22. Damage to flooring, walls, ceilings, window frames or window glass on premises should be repaired or replaced as necessary to maintain a healthy and safe standard.
- 13.23. Openable windows are to be operational at all times.

### **Roofing, Guttering, Down-Piping, Stormwater Drainage and Spouting**

- 13.24. All roofing is to be provided with roof guttering attached to downpipes and downpipes connected to an approved stormwater drainage system.
- 13.25. Roofing, guttering, down-piping, stormwater drainage lines and spouting are to be regularly maintained.

## **Lighting and Ventilation**

13.26. A habitable room in a residential building must be provided with natural light and ventilation at all times. For this purpose:

- (d) Each room must be provided with a glazed window, each not less than 10 percent of the floor area of the room with at least half of the window being openable; and
- (e) A room or cubicle used for sleeping purposes must have a minimum floor area of 5.5 metres squared per person with a minimum of 2 metres squared for each additional person.

## **14. Order 22 – Waste on land or premises**

14.1. Orders may be issued under this Criteria where waste is present or generated on the land or premises and is not being dealt with satisfactorily.

14.2. All waste is to be disposed of at an approved waste transfer station or depot, unless otherwise approved by a development approval.

14.3. Objects or matter must not obstruct or encroach upon a public place, or cause danger, annoyance or inconvenience to the public.

14.4. Objects or matter under this order includes but is not limited to:

- (a) Unauthorised site sheds and work caravans;
- (b) Unauthorised structure on or over a public place;
- (c) Unauthorised vehicles, materials and equipment;
- (d) Protruding tree or plant growth;
- (e) Unauthorised signs;
- (f) Gates that open outwards from a property onto a public place;
- (g) Garbage skips unless approved; and
- (h) Storage or accumulation of material, including waste.

14.5. Premises must be provided with approved receptacles that are impervious with close fitting lids for the containment of waste on premises.

14.6. Premises must also be provided with adequate waste container storing facilities.

14.7. Other requirements as specified in the order.

14.8. All materials, rubbish and vegetative matter required to be disposed of or removed from premises, should be done so in an approved manner to an authorised waste disposal facility.

14.9. All works should be undertaken by an appropriately qualified tradesperson.

14.10. All works must be completed to the satisfaction of Council.

## **15. Order 27 – Obstructing a Public Place**

15.1. Orders may be issued under this Criteria where an object or matter is causing or is like to cause an obstruction or encroachment on public land.

15.2. Objects or matter must not obstruct or encroach upon a public place, or cause danger, annoyance, or inconvenience to the public.

15.3. Examples of objects or matter under this order may include:



- (a) unauthorised site sheds and work caravans;
- (b) unauthorised structures on or over a public place;
- (c) unauthorised vehicles, materials and equipment;
- (d) unauthorised footpaths, crossings and driveways;
- (e) protruding tree or plant growth;
- (f) unauthorised signage;
- (g) gates that open outwards from a property;
- (h) garbage skips, unless approved; and
- (i) storage or accumulation of material, including waste.

### **16. Order 28 – Damage to a Public Place**

16.1. Orders may be issued under this Criteria where damage to a public place is actual or likely.

16.2. Damage to a public place must be prevented by installation of appropriate barriers or work practices, or other requirements. Council will require satisfactory repair or replacement of damaged areas.

16.3. Examples of activities where this order may apply include:

- (a) a road opened without a permit;
- (b) unauthorised use of a driveway, footpath, or other roadworks causing or likely to cause damage to the public area;
- (c) an unauthorised site shed or work caravan;
- (d) unpermitted use of a crane;
- (e) the erection of an unauthorised structure on a public place;
- (f) the storage of building materials, plants, and equipment on a public place and/or adjacent to trees or driplines; and
- (g) stormwater discharge onto a public road, other than by an approved storm water kerb outlet.

### **17. Order 29 – Structures Over or Under a Public Place**

17.1. An order may be issued under this Criteria where it is in the public interest to require the alteration or repair of a work or structure on, over or under a public place.

17.2. Examples of works or structures to which this order may apply are:

- (a) Shop awnings;
- (b) Pedestrian overpasses or pedestrian underpasses;
- (c) Hoardings;
- (d) Utilities (permanent or temporary);
- (e) Low electricity cables;
- (f) Stormwater pits and grates;
- (g) Advertising structures;
- (h) Bus shelters; and
- (i) Any other structure or work.

### **18. Order 30– Complying with an Approval**

18.1. Orders may be issued under this Criteria where an Approval under the relevant Act or Policy is not being complied with.

18.2. All requirements, terms and conditions of an approval are to be complied with, pursuant to relevant legislation.

18.3. Examples of approvals that may be required are:

- (a) Installation of a manufactured home, moveable dwelling or associated structure on land;
- (b) Installation of a temporary structure on land;
- (c) Use a building or temporary structure as a place of public entertainment or permit its use as a place of public entertainment;
- (d) Place a waste storage container in a public place;
- (e) Operate a system of sewerage management;
- (f) Engage in a trade or business;
- (g) Direct or procure a theatrical, musical, or other entertainment for the public;
- (h) Playing of a musical instrument or sing for fee or reward;
- (i) Set up, operate, or use a loudspeaker or sound amplifying device, excluding spruiking, which is not permitted;
- (j) Deliver a public address or hold a religious service or public meeting;
- (k) Swing or hoist goods across or over any part of a public road by means of lift, hoist, or tackle projecting over the footway;
- (l) Expose or allow to be exposed (whether for sale or otherwise) in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road
- (m) Operate a public car park;
- (n) Operate a caravan park or camping ground;
- (o) Operate a manufactured home estate
- (p) Install or operate amusement devices;
- (q) Operate an undertaker's business; and
- (r) Operate a mortuary.

## 19. Exemptions

19.1. This Policy does not apply to orders issued in accordance with item 22A in the Table in section 124 of the *Local Government Act 1993* (NSW).

## References

In writing this policy Council have referred to the policies and other materials of numerous councils and other bodies. We acknowledge the materials and assistance in writing this policy from the following:

- Narrabri Township Amenity and Public Safety Policy.
- Bankstown City Council Local Orders Policy.

## History

<b>Minute Number</b>	<b>Meeting Date</b>	<b>Description of Change</b>
221/2017	October 24, 2017	New Policy Adopted
	September 1, 2021	Rebranded
336/2022	October 18, 2022	Endorsed for Public Exhibition
396/2022	December 20, 2022	Adopted