



Local Orders and Keeping of Birds and Animals Policy

Policy Number 135

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Authorisation

Adopted by Council on 22/04/2013

Review

This policy will be reviewed every 3 years, within 1 year of elected Council

| Version | Date Adopted | Review Date |
|---------|------------------|-------------|
| 2 | 22/04/2013 | 01/09/2016 |
| | Minute No: 13799 | |

Owner

Manager Regulatory Services

1. Background

This policy has been developed to provide a clear set of guidelines to authorised Council Officers carrying out a regulatory role in the areas of Public Health, Environmental Protection and Animal Control. The guidelines outlined in this policy also assist the community in understanding the approach that Council will take with regard to the application of the Orders provisions of the Local Government Act 1993.

2. Objective

The aim of this policy is to establish fair, impartial and equitable guidelines for the exercise of discretion that Council must use in dealing with activities regulated under the Local Government Act 1993, taking into account all relevant information including the available evidence, cost to the community, the circumstances of the individual case, public policy and precedent considerations.

The policy provides a legal and administrative framework to assist Council in making decisions in its enforcement functions and ensures that the enforcement process is conducted in a timely and efficient manner.

The aim is to provide specific criteria which the Council will take into consideration when deciding options for regulating specific activities:

- (a) if enforcement action is necessary; and
- (b) the most appropriate type of action.

The policy also provides information to the public about the Council's role and policy on Local Government Act enforcement.

3. Scope

This policy applies to the investigation and enforcement of identified activities or failure to comply with terms or conditions of approvals, licences and orders. This Policy covers the regulation of matters of public health, environmental nuisance and animal control, and is to be read in conjunction with Council's over-arching Enforcement Policy.

4. Relationship to Legislation

The following acts and regulations are the guiding legislation for regulatory matters they include and are not limited to;

Local Government Act 1993 & Regulations
Environmental Planning & Assessment Act 1979 & Regulations
Public Health Act 2010 & Regulations
Food Act 2003 & Regulations
Swimming Pool Act 1992
Roads Transport Act 1993 & Regulations
Impounding Act 1993 & Regulations
Companion Animals Act 1997 & Regulations
Protection of the Environment Operation Act 1997 & regulations
Noxious weeds Act 1993
Recreational Vehicles Act 1983
Rural Fires Act 1997
Waste Avoidance and Resources Recovery Act 2001

5. Related Strategies, Plans or Policies

1. Staff Delegations - Determinations regarding enforcement action will be made in accordance with this policy and relevant delegation criteria including all relevant acts and regulations as defined under delegation.
2. Enforcement policy
3. Standard Operating Procedures

6. Definitions

The following defined terms are used in the policy:

Authorised Officer:

A Parramatta City Council staff member 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 that carry out inspections on private land for regulatory purposes will:

- Have delegation to enter premises and carry out investigations as specified in Council's Instrument of Delegations and sub delegations;
- Be authorised by Council where this is required under specific legislation to permit inspections on private property;
- Carry photographic identification demonstrating authorisation to enter premises and private lands under each specific Act; and
- Carry documentation or certificates of authority where required by the legislation being implemented.

Court Attendance Notice (CAN):

Means a court attendance notice issued and filed in accordance with the *Criminal Procedure Act 1986*. A CAN may be used to commence summary proceedings in the local court. A CAN specifies the offence and its essential particulars as well as the address of the court where the matter is to be heard. If a person does not attend court on the day specified in a CAN, a warrant may be issued for the arrest of the person or the matter may be dealt with in the absence of the person.

Defendant:

means the accused person against whom criminal proceedings are brought.

EPAA:

means the *Environmental Planning and Assessment Act 1979*.

GIPA

means *Government Information (Public Access) Act 2009*.

LGA:

means the *Local Government Act 1993*.

Penalty Infringement Notice (PIN):

means penalty infringement notice. Sometimes referred to as an 'on-the-spot' fine. PINs may only be issued for prescribed offences and the value of the fine is also prescribed by legislation.

POEO:

means the *Protection of the Environment Operations Act 1997*.

Respondent:

means the party against whom civil proceedings are brought in Land & Environment Court proceedings.

Unlawful activity:

means any activity or work that has been or is being carried out;

- contrary to a legislative provision regulating a particular activity or work;
- contrary to an environmental planning instrument that regulates the activities or work that can be carried out on particular land;
- without a required development consent, approval, permission, direction, permit or licence; and/or
- contrary to the terms or conditions of a development consent, approval, permit or licence.

Criminal Proceedings:

Criminal proceedings include

- Issuing a PIN;
- Prosecuting the offence in the Local Court by issuing a CAN; and
- Prosecuting the offence in the Land & Environment Court in its summary jurisdiction (Class 5)

Civil Proceedings;

Civil Proceeds include

- Notices and orders issued by Council pursuant to various legislation;
- Class 4 proceedings before the Land & Environment Court, seeking an order of the Court to remedy or strain a breach of the EPAA (Section 123), the LGA (Section 673), the POEO (Sections 252 & 253), or any other Act, if the breach is causing or is likely to cause harm to the environment; and
- Interlocutory relief for matters causing, or with the reasonable potential to cause, serious environmental harm. In such proceedings it is likely the Council would be required to provide an undertaking as to damages.

7. Policy Amendments

1) A Council may amend a local orders policy adopted under the Local Government Act in accordance with the requirements of the Act.

(2) An amending local policy may deal with the whole or part of the local orders policy.

8. Cessation of Policy

(1) A council may at any time revoke a local policy adopted under this Part.

(2) A local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

9. Orders Schedule

The Orders Schedule related to this Policy is detailed in Section 124 of the Local Government Act 1993.

Local Government Act 1993 Part 2 Orders

Orders requiring or prohibiting the doing of things to or on premises

| Order 1 | | |
|---|--|-------------------|
| To do what? | In what circumstances? | To whom? |
| To demolish or remove a building | (a)–(c) (Repealed) (d) Building is erected in a catchment district and causes or is likely to cause pollution of the water supply | Owner of building |
| Criteria This order is not applicable to the Parramatta Local Government Area. | | |

Order 2 repealed

| Order 3 | | |
|---|---|-------------------|
| To do what? | In what circumstances? | To whom? |
| To repair or make structural alterations to a building | (a), (b) (Repealed) (c) Building is erected in a catchment district and causes or is likely to cause pollution of the water supply | Owner of building |
| Criteria This order is not applicable to the Parramatta Local Government Area. | | |

Order 4 repealed

| Order 5 | | |
|--|--|---|
| To do what? | In what circumstances? | To whom? |
| To take such action as is necessary to bring into compliance with relevant standards or requirements set or made by or under this Act or under the <u>Local Government Act 1919</u> : a) a camping ground, caravan park or manufactured home estate b) a moveable dwelling or manufactured home c) (Repealed) d) a place of shared accommodation e) a hairdressers shop | Failure to comply with relevant standards or requirements set or made by or under this Act or under the <u>Local Government Act 1919</u> | Owner, occupier or manager or, in the case of a water meter, water supply or sewerage system in respect of which a defect occurs in work due to faulty workmanship of, or defective material supplied by, a licensed contractor (being the holder of a licence in force under the <u>Home Building Act 1989</u> authorising the holder to contract to do the work) within 12 months after the work is carried out or the material is supplied, the licensed |

| | | |
|---|--|------------|
| f) a mortuary g) (Repealed) h) a water meter, water supply or sewerage system on premises | | contractor |
| <p>Criteria</p> <p>5(a) A camping ground, caravan park or manufactured home estate:</p> <p>5(a).1 Caravan parks and camping grounds must be kept to the standards prescribed by the Local Government (Caravan parks, camping grounds and moveable dwellings) Regulation 2005 as amended for camping grounds and caravan parks.</p> <p>5(a).2 Manufactured home estates must be kept to the standards prescribed by the Local Government (Manufactured home estates and manufactured homes) Regulation 2005 as amended for manufactured home estates.</p> <p>5(b) A moveable dwelling or manufactured home:</p> <p>5(b).1 Moveable dwellings must be kept to the standards prescribed by the Local Government (Caravan parks, camping grounds and moveable dwellings) Regulation 2005 as amended for moveable dwellings.</p> <p>5(b).2 Manufactured homes must be kept to the standards prescribed by the Local Government (Manufactured home estates and manufactured homes) Regulation 2005 as amended for manufactured homes.</p> <p>5 repealed</p> <p>5(d) A place of shared accommodation:</p> <p>5(d).1 A boarding house is defined in the Parramatta Local Environmental Plan as a building or part of a building let in lodgings or a hostel which provides lodgers with a principal place of residence, but does not include backpackers accommodation, a guesthouse or serviced apartments.</p> <p>5(d).2 Places of shared accommodation must be kept to the standards prescribed by the Local Government (Orders) Regulation 2005 – Schedule 1, Standards for Places of Shared Accommodation as amended.</p> <p>Public Health Regulation 1991, Clause 22 “Sleeping Rooms”:</p> <p>The occupier of premises must not allow any room or cubicle within the premises to be used for the purposes of sleeping accommodation unless:</p> <ul style="list-style-type: none"> • the room or cubicle has a floor area of 5.5 square metres or more for each person sleeping in it (in the case of long-term sleeping accommodation) or 2 square metres or more for each person sleeping in it (in any other case); or • the room or cubicle has been exempted by the Minister under subclause (2) and complies with any conditions attached to the exemption; or • the premises are private domestic premises. <p>The Minister may, by order in writing, exempt an occupier in relation to any room or cubicle from the requirements of subclause (1), either conditionally or unconditionally, if satisfied that the exemption will not result in any adverse effect on the health of persons sleeping in the room or cubicle.</p> <p>2 Light and Ventilation</p> <p>To comply with the national Construction Code and relevant Australian Standards</p> | | |

5(e) A Hairdressers Shop or Beauty:

5(e).1 Hairdresser shops and Beauty salons must be kept to the standards as prescribed by the Local Government (Orders) Regulation 2005, Schedule 2 – Standards for Hairdressers Shops and Schedule 3 – Standards for Beauty Salons as amended.

5(e).2 Local Government (Orders) Regulation 2005, Schedule 2 – Standards for Hairdressers Shops:

5(e).3 The Skin Penetration Guidelines issued by the NSW Department of Health and AS 1668, parts 1 and 2 are also required to be satisfied by hairdressers shops and beauty salons this Order.

5(e).4 Hairdressers shops and beauty salons are subject to registration and yearly inspections. Fees and charges also apply

5(f) A Mortuary:

5(f).1 Mortuaries must be kept to the standards under the Local Government (Orders) Regulation 2005, Part4 – Standards for Mortuaries.

5(f).2 Local Government (Orders) Regulation 2005, Schedule 2 – Standards for Mortuaries:

1 Water Supply and Sewerage

(1) The mortuary must be connected to a permanent water supply in compliance with the requirements of the local water supply authority.

A backflow prevention device complying with the requirements of the Local Government (General) Regulation 2005 and specified by the local water supply authority must be provided between the water supply and all equipment, appliances, fittings and areas in a mortuary.

The mortuary must be connected to a water carriage sewerage system approved by the local water supply authority.

2 Closet and Ablution Facilities

The mortuary must be provided with:

separate water closets for the persons of each sex at the rate of 1 water closet for every 20 persons or part of 20 persons of each sex working in or about the mortuary at any one time, and shower facilities approved by the council, with an adequate supply of hot and cold water, for use by persons working in and about the mortuary, and a hand washbasin, with an adequate supply of hot and cold water, adjacent to each closet in the mortuary.

(2) Water closer and shower facilities must be provided with an air lock approved by the council between those facilities and any other part of the premises.

3 Construction

(1) The mortuary must be physically separated from all public areas of the building in which it is situated but may be integral with the construction of the remainder of the building.

(2) A body preparation room, capable of being sealed off from the remainder of the premises, must be provided in the mortuary.

(3) The body preparation room must have:

- a floor area of not less than 9.3 square metres, and
- a ceiling height of not less than 2.4 metres measured above the floor level, and
- the floor constructed of impervious material with a smooth unbroken surface and uniformly graded to discharge liquids to a floor drain, and
- a floor drain discharging through a removable screen so as to prevent the discharge of any solid materials into the sewerage system, and
- all walls and partitions constructed of impervious materials with a smooth, unbroken finish capable of being readily cleaned, and
- all joints between the floor, walls, partitions, ceiling, ventilation grilles, fittings, pipework, windows and light fittings sealed with impervious material so as to facilitate cleansing, and
- all joints between the floor and walls or partitions provided with coving of not less than 73 millimetres radius so as to facilitate cleansing, and
- all external windows fitted with flyproof screens, and
- all external doors fitted with self-closing fly screen doors or other suitable apparatus to prevent the entry of flies.
- all external doors fitted with self-closing fly screen doors or other suitable apparatus to prevent the entry of flies.

(4) In any mortuary constructed after 1 July 1993, all walls and partitions of body preparation room preparation must be of brick or masonry construction finished in compliance with subclause 3(e).

(5) The following NSW Health administered standards also apply:

Body preparation room clause 51 of the Public Health Regulation 2012.
Vehicles clause 52 of the Public Health Regulation 2012.

(6) All premises are to be connected to Sydney Water's sewerage system.

Order 6 repealed

| Order 7 | | | |
|--|------------------------|--|---------------------------|
| To do what? | In what circumstances? | To whom? | |
| 7 | To fence land | Public health, safety or convenience renders it necessary or expedient to do so and there is no adequate fence between the land and a public place | Owner or occupier of land |
| <p>Criteria</p> <p>Council will require the installation of fencing where there are conditions that affect public health, safety or convenience, such as the dumping of rubbish on land or a site, whether built upon or not, that has become, or is likely to become a threat to public health and safety.</p> <p>Adequate fencing should be erected that:</p> <ol style="list-style-type: none"> achieves a clear distinction between private and public land and adequately restricts access to the private land by an unauthorised person; is sufficient to overcome the problems or conditions affecting public health, safety or convenience; meets the following general requirements: | | | |

- the fencing must be structurally sound;
- the fencing is not to be constructed of defective or dangerous materials such as corrugated iron sheets;
- the fencing must not pose a safety risk to the public; and
- the fencing must not be unsightly and should compliment the amenity of the area; and
- the fencing must be between 1.5 and 1.8 metres in height.

Certain fences such as those constructed of brick or masonry may require a separate development approval before construction.

Fences erected under this order are to be removed when the land or site is managed so the conditions affecting public health, safety or convenience no longer exist.

| Order 8 | | | |
|--|--|---|---------------------------|
| To do what? | | In what circumstances? | To whom? |
| 8 | To identify premises with such numbers or other identification in such manner as is specified in the order | Premises have a frontage to or entrance from a road and there are no markings that can readily be seen and understood from the road | Owner or occupier of land |
| <p>Criteria Premises must be clearly identified by number, or other identification, in a manner that can be understood clearly from the road. Apart from public convenience, identification of premises is vital for swift response by emergency services to locate dwellings.</p> <p>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.</p> <p>The street number to be displayed on premises must be the number allocated to the premises by Council.</p> | | | |

| Order 9 | | | |
|--|---|--|---------------------------|
| To do what? | | In what circumstances? | To whom? |
| 9 | To fence, empty, fill in or cover up a hole or waterhole in the manner specified in the order | Hole or waterhole is or may become dangerous to life | Owner or occupier of land |
| <p>Criteria A swimming pool, spa or the like, other than a pool or spa in the course of construction, will not be considered a waterhole for the purposes of this order. These structures must comply with the requirements of the Swimming Pools Act 1992.</p> <p>A hole includes excavations for the purposes of building, where such sites have been abandoned or delayed in construction.</p> <p>A hole or waterhole will be considered dangerous to life by its accessibility and by the manner in which it is maintained and/or the creation of other likely impediments to public health and safety, such as if a waterhole presents a potential breeding ground for mosquitoes.</p> <p>A hole or waterhole must not be accessible by the public and must be maintained so the water does not pose a health or safety risk to persons.</p> | | | |

In the case of an order requiring a waterhole or hole to be fenced, the fencing is required to:

- separate the hole or waterhole from any residential building on the premises and from any place (whether public or private) adjoining the premises;
- fencing of the hole or waterhole is to be between a height of 1.5 and 1.8 metres and to be constructed of chain wire; and
- any gates are to be provided with suitable locks

The following general requirements must also be met in relation to the construction of fencing:

- The fencing must be structurally sound;
- The fencing is not to be constructed of defective or dangerous materials such as corrugated iron sheets;
- The fencing must not pose a safety risk to the public; and
- The fencing must not be unsightly and should complement the amenity of the area.

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.

A waterhole must be maintained so that it does not provide or be likely to provide a breeding ground for mosquitoes.

| Order 10 | | | |
|--|--|---|---------------------------|
| To do what? | In what circumstances? | To whom? | |
| 10 | To remove or stack articles or matter, to cover articles or matter, to erect fences or screens or to plant trees | Land is in the immediate vicinity of a public place and is used for the storage of articles or matter so as to create or be likely to create unsightly conditions | Owner or occupier of land |
| <p>Criteria</p> <p>Fencing, covering or screening of articles and/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.</p> <p>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, or fences or screens erected or trees planted, as specified in the order.</p> <p>“Articles or ”matter” that will be deemed unsightly includes, but is not limited to:</p> <ul style="list-style-type: none"> • derelict motor vehicles, caravans, trailers, boats and their components and parts; • machinery, equipment and appliances; • building materials; • firewood; • any industrial or commercial waste products; • any recycled material; • furniture and household goods; and • other sundry refuse. <p>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.</p> <p>Articles or matter must be stacked in an appropriate and safe manner. 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.</p> | | | |

Fences or screens required to be erected must be sufficient to shield view from the unsightly articles or matter and must meet requirements as specified in the order.

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.

The following general requirements must also be followed in regards to the erection of fences or screens:

- the fencing or screens must be structurally sound,
- the fencing or screens must not be constructed of defective or dangerous materials such as corrugated iron sheets,
- the fencing or screens must not pose a safety risk to the public, and
- the fencing or screens must not be unsightly and complement the surrounding amenity.

| Order 11 | | | |
|---|---|---|---------------------------|
| To do what? | In what circumstances? | To whom? | |
| 11 | To do or to refrain from doing such things as are specified in the order to prevent environmental damage, to repair environmental damage or to prevent further environmental damage | Work carried out on land has caused or is likely to cause environmental damage, being damage to the physical environment that is caused by: drainage, or drainage works, or obstructing a natural watercourse other than by a work constructed or used under a water management work approval granted under the Water Management Act 2000, not being environmental damage arising from premises, works or equipment the subject of a licence issued under the Protection of the Environment Operations Act 1997 or the subject of a notice or direction issued by a regulatory authority under that Act | Owner or occupier of land |
| <p>Criteria</p> <p>Physical environmental damage as a result of the flow of water;</p> <p>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.</p> <p>Council has the option to pursue these matters under the Protection of the Environment Operations Act 1997.</p> | | | |

| Order 12 | | | |
|-------------|--------------------------|------------------------------|---------------------------|
| To do what? | In what circumstances? | To whom? | |
| 12 | To do such things as are | Other land, or a building on | Owner or occupier of land |

| | | | |
|---|--|---|--|
| | necessary to control the flow of surface water across land | the land or other land, is being damaged or is likely to be damaged | |
| Criteria Surface water across land must be damaging or likely to be damaging land or a building on the land. | | | |

Order 13 repealed

Order 14 repealed

ORDERS REQUIRING THAT PREMISES BE USED OR NOT USED IN SPECIFIED WAYS

| Order 15 | | | |
|--|--|--|---|
| To do what? | | In what circumstances? | To whom? |
| 15 | Not to conduct, or to cease conducting, an activity on premises (whether or not the activity is approved under this Act) | The activity constitutes or is likely to constitute: a life threatening hazard, or a threat to public health or public safety and is not regulated or controlled under any other Act by a public authority | Any person apparently engaged in promoting, conducting or carrying out the activity |
| Criteria 15.1 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, must cease to be conducted or not conducted as specified in the order. | | | |

Order 15a repealed

| Order 16 | | | |
|---|--|---|---|
| To do what? | | In what circumstances? | To whom? |
| 16 | To cease the use of premises or to evacuate premises | A person to whom order No 15 is given has failed to comply with the order | The person to whom order No 15 is given |
| Criteria Criteria and requirements as specified in the order | | | |

| Order 17 | | | |
|--|--|---|------------|
| To do what? | | In what circumstances? | To whom? |
| 17 | To leave premises or not to enter premises | A person to whom order No 15 is given has failed to comply with the order | Any person |
| Criteria Criteria and requirements as specified in the order. | | | |

| Order 18 | | | |
|--|---|--|----------------------|
| To do what? | In what circumstances? | To whom? | |
| 18 | Not to keep birds or animals on premises, other than of such kinds, in such numbers or in such manner as specified in the order | Birds or animals kept on premises are: in the case of any premises (whether or not in a catchment district)—of an inappropriate kind or number or are kept inappropriately, or in the case of premises in a catchment district—birds or animals (being birds or animals that are suffering from a disease which is communicable to man or to other birds or animals) or pigs | Occupier of premises |
| <p>Criteria</p> <p>Criteria</p> <p>18.1 Council has environmental health standards for keeping animals. Section 10 of this policy indicates the recommended number of animals to be kept on residential properties.</p> <p>18.2 Development Consent must be obtained for any commercial activity where animals are kept.</p> <p>18.3 Companion animals should not disturb neighbours.</p> <p>18.4 Council may order you to reduce the number of animals you keep if your neighbours' complaints are justified. Consideration will be given to containment, noise control and hygiene.</p> <p>A. Containment The property must have fencing and/or enclosures to keep the animal inside the property at all times.</p> <p>B. Noise Control Animals must not make offensive noise. The Protection of the Environment Operations Act 1997 defines the meaning of 'offensive noise'.</p> <p>C. Hygiene Good animal hygiene is important to minimise potential impact on neighbours. Poor hygiene can harm the health and well being of people and animals living near your home. Always avoid:</p> <ul style="list-style-type: none"> • accumulation and inadequate disposal of animal waste • accumulation of stale or rotten food and bones • attraction of rodents and flies • offensive odours • poor drainage in the animal's enclosure • infestation of fleas and ticks or other parasites • accumulations of hair, fur or skin | | | |

| Order 19 | | | |
|--------------------|--|--|------------------|
| To do what? | In what circumstances? | To whom? | |
| 19 | To use or not to use a tennis court as specified | Actual or likely annoyance or threat to the safety of neighbours or users of a | Occupier of land |

| | | |
|--|--------------|--|
| | public place | |
| <p>Criteria</p> <p>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.</p> <p>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.</p> <p>Tennis courts and lighting of tennis courts are not permitted for use between the hours of 10pm and 8am, to prevent the annoyance of neighbouring residents.</p> | | |

Orders requiring the preservation of healthy conditions

Order 20

| Order 20 | | | |
|--|--|--|--|
| To do what? | | In what circumstances? | To whom? |
| 20 | To do such things as are specified in the order to put premises, vehicles or articles used for the manufacture, preparation, storage, sale, transportation or other handling or use of or in relation to food into a clean or sanitary condition | The premises, vehicle or article is not in a clean or sanitary condition | Owner or occupier of premises or owner or operator of vehicle or article |
| <p>Criteria</p> <p>All premises manufacturing, preparing, storing, selling, transporting, processing and/or handling food for human consumption must:</p> <p>Comply with relevant construction standards, including Council's Food Premises Code, Mobile Food Vending Code and Temporary Food Premises Code;</p> <p>ensure hygiene standards of premises and operators are adequate and appropriate; and ensure foodstuffs are handled and stored appropriately.</p> <p>The following are also relevant to this order:</p> <p>Food Standards Code;</p> <p>Food Act 2003 and any subsequent amendments or new food related legislation; and</p> <p>The Food (General) Regulation 2010</p> | | | |

| Order 21 | | | |
|-------------|--|---|---------------------------------------|
| To do what? | | In what circumstances? | To whom? |
| 21 | To do or refrain from doing such things as are specified in the order to ensure that land is, or premises are, placed or kept in a safe or healthy condition | The land or premises are not in a safe or healthy condition | Owner or occupier of land or premises |

Criteria

Control of vermin

An occupier of premises must take reasonable measures to keep the premises free from vermin (except any such animals kept as pets).

Vermin should be kept under control on land and premises by not providing places for vermin to harbour, such as overgrown vegetation or accumulated rubbish or refuse;

Overgrown vegetation

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. Overgrown vegetation, whether dead or alive, should be cut or slashed and the cuttings disposed of in an approved manner, such as Council's green waste removal service.

In clearing overgrown vegetation it is important not to:

- effect erosion control;
- completely remove plants other than weeds;
- contravene Council's Tree Preservation order; or
- compromise other environmental concerns.

Council expects the owner or occupier of premises to maintain grass and lawns as approximately 50 millimetres above ground surface neatly trimmed to paths, curbing and fence lines. If grass or weeds exceed a height of 300 millimetres above ground level enforcement action may commence. Grass and weeds must not exceed a height of 500 millimetres above ground level. Grass and weeds above this height is considered a likely harbourage for vermin, capable of concealing dangerous objects and generally creating unhealthy and unsafe conditions that may result in an order to be issued.

Waste or other refuse on premises

Rubbish or refuse must not be accumulated on premises so that it is likely to be a harbourage for vermin, unsightly, or a health or safety risk to the owner/s or occupier/s of the land or premises or to the public.

Private swimming pool/spa water quality

Swimming pools/spas, including water quality, on private premises must be maintained to a standard that provides safe and healthy conditions.

Swimming pools must be surrounded by a childproof barrier and non-slip surroundings pursuant to the Swimming Pools Act 1992.

Defective floors, walls, ceilings, window frames and window glass in residential premises

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.

Ceilings, walls, floors, cladding, window frames and window glass of premises must be maintained at all times to an acceptable standard.

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.

Openable windows are to be operational at all times.

The provision of adequate water supply.

An adequate water supply, in volume and pressure, from Sydney Water must be available to premises at all times to maintain the health of the owner/s or occupier/s of the premises.

The provision of adequate electric power.

All electrical wiring, outlets and switches are to be maintained to a standard not less than that required by the electricity supply authority and relevant Australian Standards.

Defective roofing, guttering, downpiping, stormwater drainage and/or spouting

All roofing is to be provided with roof guttering attached to downpipes and downpipes connected to an approved stormwater drainage system.

Roofing, guttering, downpiping, stormwater drainage lines and spouting are to be regularly maintained.

| Order 22 | | | |
|--|---|--|--|
| To do what? | In what circumstances? | To whom? | |
| 22 | To store, treat, process, collect, remove, dispose of or destroy waste which is on land or premises in the manner specified in the order, provided that it is not inconsistent with regulations made under the <u>Protection of the Environment Operations Act 1997</u> | Waste is present or generated on the land or premises and is not being dealt with satisfactorily, and is not regulated or controlled by, or subject to, a licence or notice granted or issued under the <u>Protection of the Environment Operations Act 1997</u> | Owner or occupier of land or premises, owner of or person responsible for the waste or for any receptacle or container in which the waste is contained |
| Criteria Criteria as specified in the order | | | |

| Order 22a | | | |
|--|--|---|-----------------------------------|
| To do what? | In what circumstances? | To whom? | |
| 22A | To remove or dispose of waste that is on any residential premises or to refrain from keeping waste on those premises | The waste is, in the opinion of an environmental health officer (within the meaning of the Public Health Act 2010), causing or is likely to cause a threat to public health or the health of any individual | Owner or occupier of the premises |
| Criteria Criteria as specified in the order | | | |

| Order 23 | | | |
|--|---|--|---------------------------|
| To do what? | In what circumstances? | To whom? | |
| 23 | To connect premises to the council's water supply by a specified date | The premises are situated within 225 metres of a water pipe of the council | Owner or occupier of land |
| Criteria Premises should be connected to the water supply in accordance with Sydney Water's requirements and the relevant Australian Standards. | | | |

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| |
|--|

| Order 24 | | | |
|--|--|--|-------------------------------|
| To do what? | In what circumstances? | To whom? | |
| 24 | To connect premises with a sewerage system by a specified date | The premises are situated within 75 metres of a sewer of the council | Owner or occupier of premises |
| <p>Criteria</p> <p>Premises should be connected to the sewerage system in accordance with Sydney Water's requirements and the relevant Australian Standards.</p> | | | |

| Order 25 | | | |
|--|---|---|-------------------------------|
| To do what? | In what circumstances? | To whom? | |
| 25 | Not to use or permit the use of a human waste storage facility on premises after a specified date | It is necessary for the purpose of protecting public health | Owner or occupier of premises |
| <p>Criteria</p> <p>All human waste is required to be disposed of via the sewerage system of Sydney Water.</p> <p>Premises should be connected to the sewerage system in accordance with Sydney Water's requirements and the relevant Australian Standards.</p> | | | |

Orders requiring the protection or repair of public places

Order 26 repealed

| Order 27 | | | |
|--|---|---|--|
| To do what? | In what circumstances? | To whom? | |
| 27 | To remove an object or matter from a public place or prevent any object or matter being deposited there | The object or matter: is causing or is likely to cause an obstruction or encroachment of or on the public place and the obstruction or encroachment is not authorised by or under any Act, or is causing or is likely to cause danger, annoyance or inconvenience to the public | Person causing obstruction or encroachment or owner or occupier of land from which the object or matter emanates or is likely to emanate |
| <p>Criteria</p> <p>Objects or matter must not obstruct or encroach upon a public place, or cause danger, annoyance or inconvenience to the public.</p> | | | |

| Order 28 | | |
|---|---|--|
| To do what? | In what circumstances? | To whom? |
| To take whatever steps are necessary to prevent damage to a public place and to repair damage to a public place | There is actual or likely damage: by excavation or removal of material from or adjacent to the public place, or by a work or structure, or by surface drainage or irrigation | Person responsible for the excavation or the removal of the material Owner or person entitled to the benefit of the work or structure Owner or occupier of land from which surface drainage flows or from which spray emanates |
| <p>Criteria</p> <p>Damage to a public place must be prevented by installation of appropriate barriers and/or work practices, or other requirements. Council will require satisfactory repair or replacement of damaged areas.</p> | | |

| Order 29 | | |
|--|---------------------------------------|--------------------------------|
| To do what? | In what circumstances? | To whom? |
| 29 To alter or repair a work or structure on, over or under a public place | It is in the public interest to do so | Owner of the work or structure |
| <p>Criteria</p> <p>Council may require the alteration or repair of a work or structure on, over or under a public place where it is in the public interest to do so.</p> | | |

Orders requiring compliance with approval

| Column 1 | Column 2 | Column 3 |
|---|---|--|
| To do what? | In what circumstances? | To whom? |
| 30 To comply with an approval | The approval is not being complied with | Person entitled to act on the approval or person acting otherwise than in compliance with the approval |
| <p>Criteria</p> <p>All requirements, terms and conditions of an approval are to be complied with, pursuant to relevant legislation.</p> | | |

10. Order 18: Keeping of Birds and Animals

Council has environmental health standards for keeping animals the recommended number of animals to be kept on residential properties shall be in accordance with the following table.

Development subject to and approval or exempt development criteria under the Environmental Planning and Assessment Act 1979 will not be subject to these requirements.

| TYPE OF ANIMALS | RECOMMENDED NUMBER in residential areas | RECOMMENDED MINIMUM DISTANCE from dwellings (habitable buildings) | APPLICABLE LEGISLATION, REGULATIONS AND OTHER ADVISORY INFORMATION |
|---|--|---|--|
| Bees | 4 Hives (average urban block up to 1000m ²) Development consent is required for keeping of 5 or more hives | 9 metres from any residential premises, school or child care centre As appropriate to ensure flight paths are a minimum of 2m above neighbouring properties. | Each hive is required to be registered with the NSW Department of Primary Industries. To be kept in accordance with the NSW Department of Primary Industries "Code of Practice for Beekeeping NSW". |
| Birds including but not limited to canaries, budgerigars, quails, finches and parrots | As appropriate to location and breed but not to exceed 30 birds per cubic metre. | As appropriate to avoid nuisance to neighbouring properties. | Cages and aviaries must be of sufficient size and regularly cleaned. All birds to be kept in accordance with the "Code of Ethics" produced by the Associated Bird keepers of Australia and printed by NSW Department of Primary Industries. All enclosures are to be maintained free of rodents and other vermin. All feed is to be stored in vermin-proof containers. Development consent is required for an aviary that is |
| Sulphur crested cockatoo and long billed corella | 2 (in portable cages) or 4 (in an aviary) | | |

| TYPE OF ANIMALS | RECOMMENDED NUMBER in residential areas | RECOMMENDED MINIMUM DISTANCE from dwellings (habitable buildings) | APPLICABLE LEGISLATION, REGULATIONS AND OTHER ADVISORY INFORMATION |
|-----------------|--|---|--|
| | | | <p>not exempt development under the provision of State Environment Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p>A NSW National Parks and Wildlife licence is required to keep many native birds. See the NSW Birdkeepers' Licence Species List.</p> <p>Noisy birds should be restricted in number or removed from the property. Sulphur crested cockatoo and long billed corella are likely to be noisy if kept as single caged birds.</p> <p>Keepers of more than 50 birds should be a member of an Avicultural Society.</p> |
| Cats | <p>2</p> <p>Additional animals may be approved subject to Council approval based on individual merits.</p> | | <p>Companion Animal Act 1998 Companion Animal Regulations 2008 Prevention of Cruelty to Animals Act 1979.</p> <p>The Companion Animal Act 1998 requires cats to be lifetime registered.</p> <p>Desexing will be encouraged. Also the use of identity collars. Cats are allowed to roam but access to outdoors at night should be restricted.</p> <p>All premises must be kept clean and healthy.</p> <p>Units and townhouses. Cats can only be kept with approval of the body corporate</p> |

| TYPE OF ANIMALS | RECOMMENDED NUMBER in residential areas | RECOMMENDED MINIMUM DISTANCE from dwellings (habitable buildings) | APPLICABLE LEGISLATION, REGULATIONS AND OTHER ADVISORY INFORMATION |
|-------------------------|---|--|--|
| Dogs | <p style="text-align: center;">2</p> <p>Additional animals may be approved subject to Council approval based on individual merits.</p> | | <p>Companion Animal Act 1998 Companion Animal Regulations 2008 Prevention of Cruelty to Animals Act 1979.</p> <p>The Companion Animal Act 1998 requires dogs to be lifetime registered and under effective control at all times.</p> <p>Desexing will be encouraged along with responsible care.</p> <p>All premises must be kept clean and healthy.</p> <p>All noise including barking must be controlled.</p> <p>Units and townhouses. Dogs can only be kept with approval of the body corporate</p> |
| Horses and Cattle (cow) | <p style="text-align: center;">1</p> <p>(The keeping of horses and cattle (cow) on properties of less than 1000m² is not recommended).</p> <p>Keeping of horses for profession may be carried out with Council Consent and compliance with the relevant planning legislation</p> | <p>9 metres from any residential premises, school or child care centre</p> <p>(In accordance with Local Government (General) Regulation 2005-Schedule 2 Part 5).</p> | <p>Local Government (General) Regulation 2005 - Schedule 2 Part 5 applies.</p> <p>A greater separation distance may be required by resolution of Council in particular cases.</p> <p>Fencing must be strong and durable to prevent escape. Stables and sheds must be hard paved and graded to drain.</p> <p>Any structure must have Development Consent. A shelter 12 m² in size for each horse and 9 M² for</p> |

| TYPE OF ANIMALS | RECOMMENDED NUMBER in residential areas | RECOMMENDED MINIMUM DISTANCE from dwellings (habitable buildings) | APPLICABLE LEGISLATION, REGULATIONS AND OTHER ADVISORY INFORMATION |
|-----------------|---|---|---|
| | | | each pony |
| Pigeons | <p>As appropriate in the circumstance -</p> <p>For registered active members of the Pigeon Fanciers Association or Racing Association up to 150 birds</p> <p>For non-members up to 50 birds</p> | 5 metres from any residential premises, school, child care centre or boundary | <p>Nuisance due to noise and free flight of pigeons is to be minimised.</p> <p>Lofts must be constructed on hard paving of a smooth surface, graded to drain.</p> <p>Lofts are to be kept clean at all times. Waste is to be cleaned up daily and disposed of appropriately</p> <p>Open lofts are not permitted.</p> |
| Poultry | <p>10 for <i>Gallus gallus</i> or guinea fowls</p> <p>10 for other poultry</p> | <p>4.5 metres from any residential premises, school, child care centre or boundary</p> <p>30m from a dwelling and a minimum of five metres from any boundary</p> <p>In accordance with Local Government (General) Regulation 2005, Schedule 2 Part 5.</p> | <p>Local Government (General) Regulation 2005, Schedule 2 Part 5 applies. Council may, by resolution, insist on greater distances than specified in particular cases.</p> <p>Hard paving with concrete or mineral asphalt must be provided under roosts in poultry houses. This does not apply to poultry houses located greater than 15.2 metres from buildings, or where the floor of the poultry house is constructed of clean sand or other suitable material.</p> <p>Poultry yards must be enclosed to prevent escape of poultry.</p> <p>Yards must be kept free of rats and mice.</p> <p>Roosters are not to be kept on residential premises (as crowing may cause offensive noise).</p> |

| TYPE OF ANIMALS | RECOMMENDED NUMBER in residential areas | RECOMMENDED MINIMUM DISTANCE from dwellings (habitable buildings) | APPLICABLE LEGISLATION, REGULATIONS AND OTHER ADVISORY INFORMATION |
|-----------------|---|---|--|
| | | | Commercial premises must have the relevant development consent. |
| Rabbits | 2 | 3 metres from any residential premises, school, child care centre or boundary | <p>Must be a recognised domestic breed and kept in a rabbit-proof enclosure.</p> <p>The rabbits must not be vaccinated with the fibroma vaccine.</p> <p>Subject to compliance with the NSW Agriculture requirements</p> <p>Do not release into the environment.</p> |
| Reptiles | As appropriate in the circumstances | As appropriate in the circumstances | <p>NSW National Parks and Wildlife Act 1974 and Fauna Protection regulations place a general prohibition on the keeping of reptiles.</p> <p>You need a licence from the NSW NPWS to keep reptiles.</p> <p>All species must be adequately housed to prevent escape.</p> <p>Breeding of rats or mice for feeding is not permitted.</p> |
| Sheep and Goats | 1 Not permitted in Units or townhouses | 6 metres from any residential premises, school, child care centre or boundary | <p>The keeping of goats and sheep on residential land is not recommended.</p> <p>Animals are not to be slaughtered at residential premises.</p> |
| Swine (Pig) | One pig per 2 hectares of land (zoned rural land only). | 60 metres from any residential premises, school, child care centre and 10 metres from any | Prior to a <u>piggery</u> being established, it is necessary to obtain <u>Development Consent</u> from Council for the use of the land as a pig farm. |

| TYPE OF ANIMALS | RECOMMENDED NUMBER in residential areas | RECOMMENDED MINIMUM DISTANCE from dwellings (habitable buildings) | APPLICABLE LEGISLATION, REGULATIONS AND OTHER ADVISORY INFORMATION |
|-----------------|---|---|--|
| | <p>Development Consent required (under SEPP 30) for development involving the keeping of more than 20 breeding sows or 200 pigs.</p> <p>N.B. An Environmental Impact Statement required where proposed in environmentally sensitive areas or where more than 200 sows/ 2000 pigs are proposed.</p> <p>Toy / Miniature / Tea cup pigs 1 per residential property</p> | <p>boundary. (in accordance with Local Government (General) Regulation 2005 – Schedule 2 Part 5)</p> | <p>Minimum land area 2 hectares.</p> <p>Local Government (General) Regulation 2005 - Schedule 2 Part 5 applies.</p> <p>The keeping of pigs is not recommended on residential properties.</p> <p>Toy- miniature pigs shall be considered on a merit based assessment</p> |

11. Recovery of Legal Costs

If a Council Officer enters any premises for the purpose of making an inspection and as a result of that inspection, requires any works to be carried out on or in the premises, the council may recover the reasonable costs of the entry and inspection from the owner or occupier of the premises.

12. Administration

Development Consent must be obtained for any commercial activity where animals are kept.

Council may order you to reduce the number of animals you keep if your neighbours' complaints are justified. Consideration will be given to containment, noise control and hygiene.

A. Containment

The property must have fencing and/or enclosures to keep the animal inside the property at all times.

B. Noise Control

Animals must not make offensive noise. The Protection of the Environment Operations Act 1997 defines the meaning of 'offensive noise'.

C. Hygiene

Good animal hygiene is important to minimise potential impact on neighbours. Poor hygiene can harm the health and well being of people and animals living near your home.

Always avoid:

- i. accumulation and inadequate disposal of animal waste
- ii. accumulation of stale or rotten food and bones
- iii. attraction of rodents and flies
- iv. offensive odours
- v. poor drainage in the animal's enclosure
- vi. infestation of fleas and ticks or other parasites
- vii. accumulations of hair, fur or skin

Complaints regarding the keeping of Birds and Animals

Council staff will first consult the people involved in the complaint using Council's complaints handling procedure with the aim of resolving the complaint.

If the problem cannot be resolved by consultation, then Council will proceed to issue a Notice of Proposal to serve an Order.

Normally, a person will be given an opportunity to make representations to Council before a formal Order is issued.

If a serious risk to health or safety exists, then an Emergency Order may be issued without prior notice.

13. Hearing of Representations

In accordance with Section 135 of the Local Government Act, after hearing and considering any representations made concerning any proposed Order, the direct Line Manager concerned may determine:

- (a) to give an Order in accordance with the proposed order; or
- (b) to give an Order in accordance with modifications made to the proposed Order; or
- (c) not to give an Order.

(d) When considering representation in writing or verbally, the authorised officer is to take into consideration the wellbeing of the occupier/ or owner, when taking enforcement action relating to the keeping of animals.

A review of any representations demonstrates that Council has observed and considered procedural fairness.

Policy hierarchy chart

