



**LOCAL ORDERS POLICY
(2006)**

**FOR ORDERS ISSUED UNDER
LOCAL GOVERNMENT ACT, 1993**

Adopted: 20 June 2006
Amended: 24 June 2008

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1. TITLE

This Policy (“The Policy”) is called the “Blue Mountains City Council Local Orders Policy”.

2. STATUS AND PURPOSE OF THE POLICY

The Policy is a local orders policy prepared and adopted under Chapter 7, Part 3 of the Local Government Act, 1993 (“the Act”).

The purpose of the Policy is to supplement provisions of the Act and the Local Government (Orders) Regulation by specifying Council’s policy in regards to certain Orders under Section 124 of the Act.

3. GENERAL AIMS OF THE POLICY

- To provide an integrated framework for dealing with proposed orders.
- To apply common and consistent requirements and procedures for the relevant types of orders.
- To ensure consistency and fairness in the manner in which the Council deals with orders.
- To assist the Council in the carrying out of its responsibilities under Chapter 8 of the Act.

4. COMMENCEMENT OF THE POLICY

The Policy was adopted by the Council on 20 June 2006 and commences on 20 June 2006.

5. AMENDMENT OF THE POLICY

The Policy incorporates the amendments listed in the Note to this Clause.

Note:- The following amendments have been adopted:

Amendment No.	Date	Nature of Amendment	Date Commenced	Notified in local paper
1	24-6-08	Order 18 replaced with Addendum – Keeping of Animals	24-6-08	Exhibition – 19/3/08 - 15/4/08

6. REVOCATION OF THE POLICY

The Policy will be automatically revoked at the expiration of 12 months after the declaration of the poll for the next general election, unless the Council revokes it sooner.

Note: Section 165(4) of the Act provides for automatic revocation of the Policy. The next general election is expected to be held in September 2008.

7. LAND TO WHICH THE POLICY APPLIES

The Policy applies to all land within the Blue Mountains Local Government area.

8. DEFINITIONS

Expressions used in the policy not specifically defined and which are defined in the dictionary at the end of the Act (the “Act Dictionary”) have the meaning set out in the Act Dictionary.

9. RELATED DOCUMENTS

The following documents are related, either directly or indirectly, to the Policy:

- Local Government Act, 1993 - particularly Chapter 7.
- Local Government (General) Regulation 2005.
- The Environmental Planning and Assessment Act 1979.
- The Environmental Planning and Assessment Regulation 2000.
- Food Act 2003.
- Blue Mountains City Council Local Environmental Plan 1991.
- Blue Mountains City Council Local Environmental Plan 2005.
- Local Environmental Plan No.4.
- Blue Mountains City Council Development Control Plan No. 33 – Exempt and Complying Development.
- Environment and Health Guidelines: On-site Sewage Management for Single Households, 1999 (Silver Book).
- Blue Mountains City Council Better Living DCP.
- Blue Mountains City Council Local Approvals Policy.

10. GENERAL MATTERS FOR CONSIDERATION

The matters that Council must consider in determining whether to issue an Order are:

- The matters prescribed in Section 124 of the Local Government Act, 1993 and the Local Government (Orders) Regulation, 1999.
- Procedures to be observed before giving orders as detailed in Chapter 7, Part 2, Division 2 of the Local Government Act
- Any relevant adopted Council Policy or performance standard, including those listed in Clause 9 of this policy.
- The principles of ecologically sustainable development.
- Health and safety issues
- Environmental issues

11. SPECIFIC MATTERS

The following specific matters are to be considered in determining whether to issue an Order:

TABLE 1
SPECIFIC MATTERS FOR CONSIDERATION

SECTION 124		
Type of Order	Matters in addition to those listed in the Table to Section 124 of the Act	Advisory Note
<p>Order 7</p> <p>To fence land.</p>	<p><u>Building issues</u></p> <p>When premises present a significant public health or safety risk, they will need to be fenced to protect people from entering the property.</p> <p>Council may require an emergency order in these situations. Works will need to be completed within 1 to 7 days depending upon the severity of the situation.</p>	<p>If the works are not completed, Council may need to effect the order to protect public health and safety. Council has an administration charge for this work and this is indicated in the order. Contractor's fees for the carrying out of the works will be recovered.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • Burnt out premises • Dangerous circumstances such as broken glass, broken asbestos, excavations, contaminated sites. • Unoccupied and derelict premises • Construction sites
<p>Order 7</p> <p>To fence land.</p>	<p><u>To secure livestock</u></p> <p>Where livestock have escaped from premises, Council may require that the land be fenced.</p> <p>Council may require an emergency order in situations where the livestock cannot otherwise be contained on the premises. Works will need to be completed within 1 to 7 days depending upon the severity of the situation.</p> <p>Where there are alternatives for the securing of livestock, Council will require the works to be completed within a period of one to three months.</p>	<p>If the works are not completed, Council may need to effect the order to protect public health and safety. Council has an administration charge for this work and this is indicated in the order. Contractor's fees for the carrying out of the works will be recovered.</p>

SECTION 124		
Type of Order	Matters in addition to those listed in the Table to Section 124 of the Act	Advisory Note
<p>Order 10</p> <p>To remove or stack articles or matter, to cover articles or matter, to erect fences or screens or to plant trees</p>	<p>Where premises have become untidy due to the storage of articles and these articles are visible from the street, Council will require that they be removed or suitable screens or fences be erected within a period of one to three months.</p>	<p>These articles can include any of the following (Note:- the list is not exhaustive):</p> <ul style="list-style-type: none"> • Materials stored in boxes, drums and crates • Building materials • Furniture • Machinery • Motor vehicle parts and motor vehicle bodies • Unregistered and derelict caravans, boats, box trailers, trucks or buses. • Clothing • Rubbish and/or recyclable materials
<p>Order 12</p> <p>To do such things as are necessary to control the flow of surface water across land</p>	<p>Where guttering and downpiping on a building are failing or not adequately connected to a stormwater system and the discharge is increasing the flow of surface waters over the land, Council will require works to be completed within one to three months.</p>	<p>Failure of the system includes:</p> <ul style="list-style-type: none"> • rusting of gutters or downpipes • the removal of gutters or downpipes, • the discharge of downpipes at the ground surface • the discharge of drainage lines onto adjoining properties • the blockage of gutters, downpipes or drainage lines
<p>Order 18</p> <p>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</p>	<p>Refer to <i>Addendum to the Local Orders Policy for Order 18 – Keeping of Animals</i>.</p>	

SECTION 124		
Type of Order	Matters in addition to those listed in the Table to Section 124 of the Act	Advisory Note
<p>Order 20</p> <p>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</p>	<p>Where premises, vehicles or articles are unclean or unsanitary including the presence of dusts, dirt and grease, Council will issue an emergency order directing that the works be completed with 1 to 7 days depending upon the severity of the situation.</p>	<p>Council may also issue orders under the Food Act 2003.</p>
<p>Order 21</p> <p>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.</p>	<p><u>Overgrown vegetation</u></p> <p>Where premises have become overgrown with vegetation and the land is:</p> <ul style="list-style-type: none"> • located in close proximity to a dwelling, • deemed to be unsafe or unhealthy and could harbour vermin or other animals, <p>Council will require that works be completed within a period of one to three months.</p>	<p>Overgrown vegetation can become a place where vermin and snakes can harbour and this is not considered safe or healthy in residential areas. This is particularly a problem with vacant land although it can equally apply to developed sites that have not been properly maintained.</p> <p>Council will require that the grass and/or shrub layer be modified. This will include dead and dry materials.</p>
<p>Order 21</p> <p>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.</p>	<p><u>Unsafe or unhealthy swimming pool</u></p> <p>Where premises have a swimming pool that is:</p> <ul style="list-style-type: none"> • not fenced and there is the possibility of direct access for children; and/or • The pool water is not maintained in a sanitary condition <p>Council may issue an emergency order directing that works be completed within 1 to 7 days depending upon the severity of the situation.</p> <p>If the premises are otherwise secured from the street, Council will require that the fencing works be completed within a period of one to three months.</p>	<p>Council can also issue an order under the Swimming Pools Act where it is in a residential area and there is an existing dwelling on the allotment. Where there is no existing dwelling, it is not possible for Council to issue an order under the Swimming Pools Act.</p>

SECTION 124		
Type of Order	Matters in addition to those listed in the Table to Section 124 of the Act	Advisory Note
<p>Order 21</p> <p>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.</p>	<p><u>Sewer choke</u></p> <p>Where a premises has a sewer choke, Council may issue an emergency order directing that works be completed within 1 to 7 days depending upon the severity of the situation.</p>	<p>Sewer chokes create a public health risk and need urgent attention as serious illness can result.</p>
<p>Order 21</p> <p>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.</p>	<p><u>Inappropriate storage or handling of hazardous materials</u></p> <p>Where premises present conditions that are unhealthy or unsafe due to inappropriate storage or handling of hazardous materials, Council may issue an emergency order directing that works be completed within 1 to 7 days depending upon the severity of the situation.</p>	<p>This may include the inappropriate storage of hazardous materials such as oils or contaminated wastes from industrial processes or asbestos.</p>
<p>Order 21</p> <p>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.</p>	<p><u>Decking and balustrades</u></p> <p>Where decking and/or balustrades have deteriorated or no longer meet acceptable standards for safety, Council may issue an emergency order directing that works be completed within 1 to 7 days depending upon the severity of the situation. If it is not considered an emergency situation, Council may order that the works be completed within a period of one to three months.</p>	<p>Some decking and balustrades present a major safety risk to the community. In extreme cases, Council may also order that public access to these areas be prohibited until the works have been satisfactorily completed.</p>

SECTION 124		
Type of Order	Matters in addition to those listed in the Table to Section 124 of the Act	Advisory Note
<p>Order 21</p> <p>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.</p>	<p><u>Failure of sewage management system</u></p> <p>Where the premises are currently serviced by an on-site sewage management system (other than pump-out) and that system, in the opinion of Council, is failing to meet the requirements of:-</p> <ul style="list-style-type: none"> • Council’s Development Control Plan ‘Better Living’; • The conditions of consent or approval to operate the on-site system; • Local Government (General) Regulation 2005. • The requirements of the Environmental and Health Guidelines: On-site Sewage Management for Single Households. <p>Council will require that the system be upgraded to comply with the provisions of the Environmental and Health Guidelines: On-Site Sewage Management for Single Households.</p>	<p>The reason for this order is that the system is not operating satisfactorily and is or is likely to be causing an environmental and public health risk.</p> <p>Specific upgrading requirements may include, but are not limited to:</p> <ul style="list-style-type: none"> • De-sludging of existing septic tanks. • Servicing of the Aerated Wastewater Treatment System. • Replacement or supplementation of the current septic tank and disposal trenches (tank and trenches) with a pump-out system. • Replacement of the current disposal system with another (specified) type of system. • Installation of new trenches • Installation of sub-surface irrigation pipe system • Installation of surface water diversion drain or barrier • Installation of low water use devices within the premises. • Or a combination of any of the above <p>Any proposal involving installation of a pump-out system will require approval from Sydney Water.</p> <p>Council will require completion of the works within a period ranging from 1 to 3 months depending on the scope of works to be undertaken.</p>

SECTION 124		
Type of Order	Matters in addition to those listed in the Table to Section 124 of the Act	Advisory Note
<p>Order 24</p> <p>To connect premises with a sewage system by a specified date.</p>	<p><u>Pump-out system</u></p> <p>Where the premises are currently serviced by a pump-out system and the pump-out system is operating satisfactorily, Council will require that the premises be connected to the sewer within a period of 6 months.</p> <p>Where the premises are currently serviced by a pump-out system, and the pump-out system is not operating satisfactorily, Council will require that the premises be connected to the sewer within a period of three (3) months.</p> <p><u>On-site sewage management system</u></p> <p>Where the premises are currently serviced by an on-site sewage management system (other than pump-out) and that system, in the opinion of Council, is failing to meet the requirements of:</p> <ul style="list-style-type: none"> • Council's Development Control Plan 'Better Living'; • The conditions of consent or approval to operate the on-site system; • Local Government (General) Regulation 2005. • The requirements of the Environmental and Health Guidelines: On-site Sewage Management for Single Households. <p>Council will require that the premises be connected to the sewer within a period of 3 months.</p>	<p>The continued operation of a pump-out system which is subsidised by the State Government is a duplication of expenses incurred in installing the sewer system in the area, it is not economically sustainable and the pump-out system has higher associated environmental risks</p> <p>The system is not operating satisfactorily and is or is likely to be causing an environmental and public health risk.</p> <p>Where it can be demonstrated that wastewater is being treated and used sustainably, Council will not require sewer connection</p>

SECTION 124		
Type of Order	Matters in addition to those listed in the Table to Section 124 of the Act	Advisory Note
<p>Order 27</p> <p>To remove an object or matter from a public place or prevent any object or matter being deposited there</p>	<p>Where building materials, vehicles or other matter including rubbish are stored on Council’s footpath, road reserve or road, Council will issue an emergency order to have them removed within a period of 1 to 7 days.</p>	<p>The materials can cause an obstruction to the public or create unsightly conditions.</p>

12. CRITERIA COUNCIL MUST CONSIDER BEFORE THE SERVICE OF ORDERS

Generally Council must consider the requirements of Chapter 7, Part 2, Division 2 of the Local Government Act before it serves the orders.

Orders served in an emergency situation need not be preceded with a notice of intention.

13. REPRESENTATIONS AND NATURAL JUSTICE

The person who signs the order will not be the person who receives representation. Council will ensure natural justice is observed in the assessment of any representations.

14. PROSECUTION AND THE RECOVERY OF COSTS

Where works have not been completed within the allotted time period, Council may decide to prosecute for the offence.

Council may also decide to enter upon the premises and complete the works. There is an administrative charge for this process together with the charges to complete the works. Council will recover all costs.

