

POLICY NAME	Local Orders Policy	
Date Adopted	22 June 2026	
Resolution Number	150/26	
Policy Custodian	Director of Infrastructure Services	
Policy Development Officer	Office of the Director of Infrastructure Services Administration	
Review Date	(3 years from resolution date)	
Relevant Legislation	<ul style="list-style-type: none"> • <i>Local Government Act 1993</i> • <i>Local Government (General) Regulations 2005</i> • <i>Biosecurity Act 2015</i> • <i>Companion Animals Act 1998</i> • <i>Companion Animals Amendment (Rehoming Animals) Act 2022</i> • <i>Companion Animals Regulation 2018</i> • <i>Conveyancing Act 1919</i> • <i>Environmental Planning and Assessment Act 1979</i> • <i>Environmental Planning and Assessment Amendment Act 1997</i> • <i>Exhibited Animals Protection Regulation 2021</i> • <i>Food Act 2003</i> • <i>Food Regulation 2025</i> • <i>Home Building Act 1989</i> • <i>Public Spaces (Unattended Property) Act 2021</i> • <i>National Parks and Wildlife Act 1974</i> • <i>Non-Indigenous Animals Regulation 1997</i> • <i>Public Health Regulation 2022</i> • <i>Public Health Act 2010</i> • <i>Protection of the Environment Operations Act 1997</i> • <i>Swimming Pools Act 1992</i> • <i>Tenterfield Local Environmental Plan 2013</i> • <i>Water Management Act 2000</i> 	
Related Documents	<ul style="list-style-type: none"> • Australian Standard 1926 • Compliance and Enforcement Policy • Customer Service Policy • Delegation of Authority Register • Development Control Plan • Enforcement Guidelines for Councils, Office of the NSW Ombudsman, December 2015 • Food Premises Code • Food Standards Code • Local Orders for the Keeping of Animals in Urban Areas of Tenterfield Shire • Local Orders Schedule • State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 	

POLICY OBJECTIVES

This policy aims to:

- provide guidance on the Regulatory Regime implemented by Council for the issuing of legal documents known as Notices and Orders

- provide a framework for dealing with regulatory of building, animal, environmental and public health issues within the Tenterfield Shire Council area
- outline common and consistent requirements for the issue of Notices and Orders relevant to the policy
- ensure Council's policy requirements for regulatory matters are readily accessible to the community

POLICY SCOPE

The Local Orders Policy assists Tenterfield Shire Council in enacting its regulatory responsibilities, conferred by the Appropriate Regulatory Authority (ARA), to enforce legislated Acts and Regulations.

This policy focuses on one of these enforcement options, that being the issue of Notices and Orders as a legal means to achieve community amenity in areas of animal management (including keeping of animals), Public Health and Environmental Protection by specifying the criteria that Council must take into consideration in determining whether or not to give an order under Section 124 of the Local Government Act 1993 and Environmental Planning and Assessment Amendment Act 1997.

POLICY STATEMENT

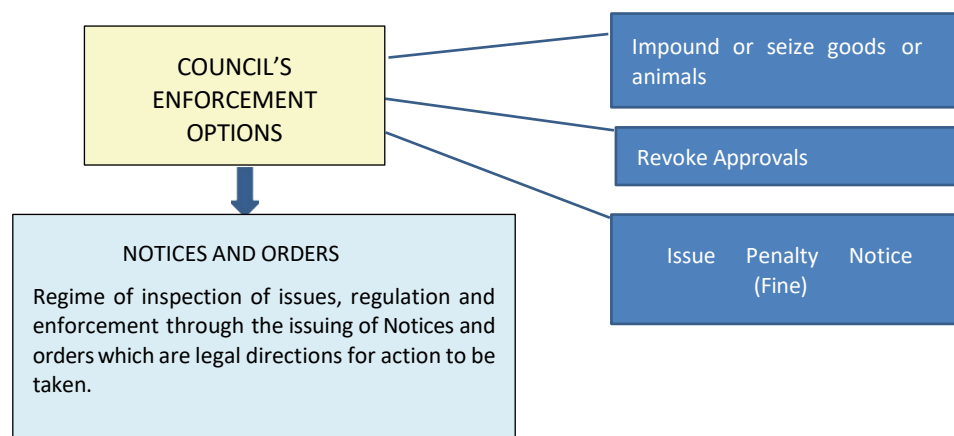
Council is committed to effectively managing its legislative obligations in respect to animal management, public health and environmental management in such a way as to facilitate a safe and healthy environment, to improve the amenity of the LGA, and ensure good governance practices.

Council's Local Orders Policy and subsequent Orders Schedule, outlines the circumstances that may warrant Council issuing an order.

This policy has been drafted in line with Parts 2 and 3, and Section 159 of the *Local Government Act 1993*.

This policy outlines some of the different types of Notices and Orders Council may issue under legislated Acts and Regulations, and the specific circumstances in which Council may choose to issue such a Notice or Order.

This policy **does not** detail the enforcement processes Council's Authorised Officers undertake outside of the Notice/Orders regime, including revocation of approvals, impounding of goods or animals, issuing of Penalty Notices and Court proceedings.



Notices and Orders to which this policy relates:

The policy applies to Notices and Orders issued under a number of legislations, referenced in table 1 (below). Orders have been grouped into sections to which they relate, to make searching for the orders easier when using this document.

NOTE – Certificates relating to existing Notices and Orders in force on a property can be gained by application to Council under section 735A of the Local Government Act 1993, and clause 41 of Schedule 5 of the Environmental Planning and Assessment Act 1979.

Summary of Notices and Orders to which this policy relates:

ORDER NUMBER	DESCRIPTION OF ORDER
Local Government Act 1993	
Order 1	To demolish or remove a building
Order 3	To repair or make structural alterations to a building
Order 5	To take necessary steps to comply with relevant standards
Order 7	To fence land
Order 8	Numbering of premises for identification
Order 9	Fence, empty, fill or cover up a waterhole
Order 10	Remove, stack or cover articles or matter, to erect fences or plant trees
Order 11	To do or to refrain from doing things to prevent environmental damage, to repair environmental damage or to prevent further harm
Order 12	Take necessary steps to control the flow of surface water
Order 15	Not to conduct or to cease conducting an activity on premises
Order 16	To cease the use of premises or evacuate
Order 17	To leave or to not enter premises
Order 18	Management for the keeping of birds and animals
Order 19	To use or not use a tennis court as specified
Order 20	Sanitation for food premises
Order 21	Keep land in a safe / healthy condition
Order 22	Appropriate storage, treatment and disposal of waste
Order 22A	To remove or dispose of waste
Order 23	To connect premises to Council's water supply
Order 24	To connect to a sewerage system

Order 25	Cease use of a human waste treatment device
Order 27	To remove or prevent the placement of an object in a public place, or prevent any object or matter from being deposited
Order 28	To take steps necessary to prevent or repair damage to a public place
Order 29	To alter or repair or structure or undertake work on, over or under a public place
Order 30	To comply with an approval

Environmental Planning and Assessment Act 1979

Order 1	Cease use of premises for purpose specified
Order 2	Stop building or subdivision work
Order 3	To demolish or remove a building
Order 4	To stop demolishing, or not to demolish, a building
Order 5	To repair or make structural alterations to a building
Order 6	To alter, remove or demolish an advertising structure
Order 7	Erect or install structures to protect persons on or in a public space
Order 8	Evacuate premises or to cease conducting an activity on a premises
Order 9	Exclusion order to leave premises or not enter premises
Order 10	To restore premises to condition they were before unlawful works occurred
Order 11	Bring unlawful development into compliance with approval and/or standards
Order 12	To repair or remove a building in a public place
Order 13	To complete authorized works under a planning approval
Order 14	To do or refrain from doing any act to remedy or restrain a breach of Division 5.2 or a breach of a consent for State significant development

Protection of the Environment Operations Act 1997

Section 91	Clean Up notice
Section 96	Prevention notice
Section 135	Smoke abatement notice
Section 144	Cease use of premises as a waste facility
Section 264	Noise control notice
Section 276	Noise abatement direction

Public Health Act 2010

Section 33	Direct a regulated system to be maintained
Section 42	Improvement notice
Section 44	Direct Improvement notice to be complied with
Section 45	Prohibition Order

Food Act 2003

Section 45	Notification of seizure of goods
Section 58	Improvement notice
Section 60	Prohibition order

Public Spaces (Unattended Property) Act 2021

Section 20	Sale or disposal of impounded items
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Companion Animals Act 1993

Section 10B	Notice requiring registration of animal
Section 18	Notice of seizure of an attacking or biting dog
Section 21	Nuisance order – Dog
Section 31	Nuisance order – Cat
Section 34	Declaration of dangerous dog
Section 58A	Declaration of a restricted breed of dog

Swimming Pools Act 1992

Section 23	To bring a pool into compliance
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Roads Act 1993

Clause 91	Direction to provide support for public road
Clause 93	Direction to fill excavation
Clause 95	Direction to remove windblown sand, soil or other matter
Clause 96	Direction to provide fence/floodgates, or make repairs to fence
Clause 97	Direction to locate new/replacement services in conduits for utility services
Clause 98	Alter works or structure location on or over a public road
Clause 99	Repair or maintain water supply work on or over a public road
Clause 100	Repair or replace bridge or level crossing
Clause 101	Restore a public road to its previous condition

Process for Notices and Orders

The process for issuing Notices and Orders varies in line with the Act under which it is issued. The regiment entails the issue of a Notice, Order or Direction either verbally or in writing by one of Council's duly Authorised Officers. Notices, Orders and Directions referenced within this document are formal legal directions which can be followed up with monetary penalties as well as court action if they are not complied with. The terms Direction, Notice and Order are interchangeable within this policy, and will depend upon the legislation under which they are issued.

NOTE – A "Notice of Intention to issue an Order" does not have the same meaning as a "Notice" under this policy.

Content of a Notice or Order

In all cases Council's Officers aim to compile clear and concise directions in Notices and Orders, in an unambiguous manner. The terms of the Order will be given and may be specified against benchmarks, standards or sections of legislation where appropriate. Contents of Notices and Orders will vary dependent upon the actual issue at hand.

All Notices and Orders will state a clear timeframe for compliance. In the event of a verbal Order, hand delivered Order, or an Emergency order, the timeframe commences immediately from the time at which it is given. In the case of posted Orders, the timeframe commences from the fourth working day after the Order is posted.

Orders will be served on either a person (individual) or a corporation, but not a business name.

Extensions of Time

Where a person or corporation cannot comply with the timeframe specified in the notice or Order, they may request an extension of time in writing. Details on this process are included within each Notice/Order issued by Council. Each request for a time extension will be assessed on its individual merit.

Representations Against an Order

In some cases the recipient of an Order has the opportunity to make representations against the issue of the Order, or the terms of the Order. Where this is applicable, the Order will state the correct pathway for such representations to be made.

Most Orders allow for the recipient to appeal to a Court of competent jurisdiction against the issued Order.

The following Orders do not allow for appeal to a Court:

- A "Notice of Intention to issue an Order" under the Local Government Act or the Environmental Planning and Assessment Act.
- A "Clean Up Notice" issued under the Protection of the Environment Operations Act.
- A "Registration Notice" issued under the Companion Animals Act.
- An "Improvement Notice", or "Prohibition Order" issued under the Food Act.

Compliance with an Order

Where the terms of an Order are complied with within the timeframes specified, the recipient will receive notification from Council that the Order has been satisfied and thus revoked. Where the terms of an Order have not been satisfied, Council may give effect to the Order by taking further action. This can include Council entering the land to have works completed by a contractor, or commencement of proceedings in either the Local Court or Land and Environment Court of NSW. All Court actions taken for non-accordance with an Order will be undertaken within the timeframes specified by relevant legislation.

Cost Recovery

Where Council engages contractors to carry out the works to comply with the terms of an order, the cost of these works will be on forwarded to the responsible person or company for payment. In the case of works on private property the landowner will be responsible for the payment.

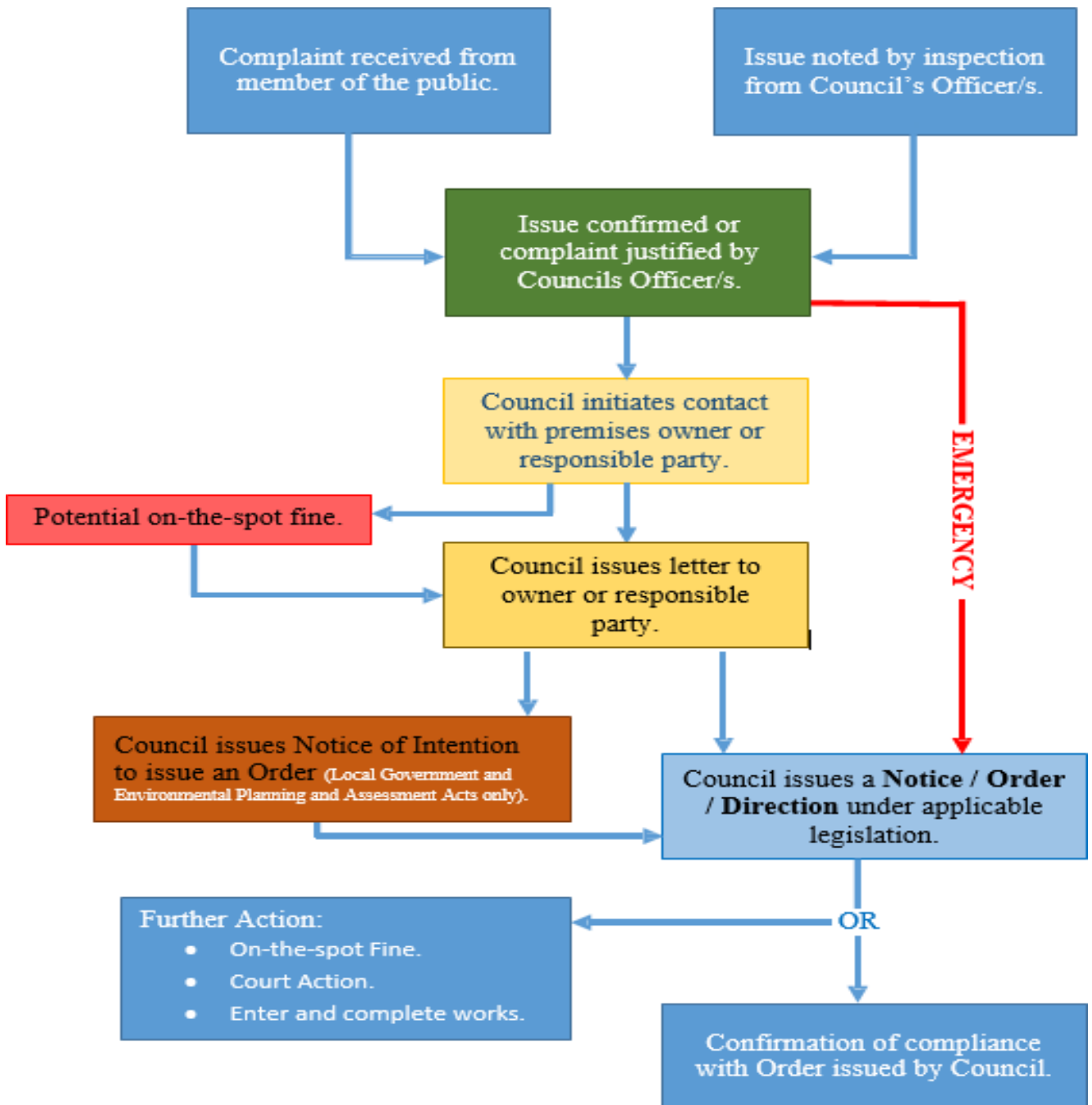
Council can also recover reasonable costs to give effect to an order under section 10.2 Environmental Planning & Assessment Act; section 104 Protection of the Environment Operations Act and section 26 Noxious Weeds Act. Under the Protection of the Environment Operations Act, the cost compliance notice and associated administrative fee can also be registered as a debt against the title of the land.

Council's fees and charges also provide for the recovery of administrative costs involved in giving effect to an order under other Acts.

Representations can be made to waive an administrative fee where exceptional circumstances exist. This request must be in writing and accompanied by the relevant fee (where applicable).

Orders Enforcement Process

Council employs a number of duly Authorised and Enforcement Officers who are able to enter non - residential areas of a premises (in most cases without a search warrant), inspect issues, collect evidence, give directions for work to be undertaken or activities to cease, and issue Notices and Orders. Generally, the process is as follows:



Policy Index

The Orders under this policy have been grouped into five (5) basic parts for ease in interpreting which Orders are applicable to broader issues. These five (5) parts are as follows:

	PART 1 – Environment and Amenity	Page 9
	PART 2 – Health and Safety	Page 12
	PART 3 – Compliance with Approvals	Page 15
	PART 4 – Building Fire Safety	Page 18
	PART 5 – Animals	Page 19

NOTE – While each part makes specific reference to certain Orders, these Orders can apply across multiple parts. The group has been undertaken as a means to give a best likely fit under broader circumstances only.

Council’s enforcement processes are not detailed as part of this policy.

Each part is split into two (2) sections, the first of which details the various Orders applicable under various legislation, and the second of which gives general and/or specific assessment criteria Council’s Officers use when determining if an Order should be issued.

PART 1 – ENVIRONMENT AND AMENITY

Local Orders Policy - PART 1 – Environment and Amenity

ASSESSMENT CRITERIA

Tenterfield is comprised of a wide variety of environments, scenic landscapes and unique villages that make up the Shire, including rural landscapes, agricultural uses, commercial shopping areas, residential village zones, bushland and National parks.

Council may take action with the aim to remedy issues raised by lodgement of complaints or through Council's officers noting potentially serious matters onsite. Council will account for the following criteria when deciding if an Order should be issued for an environment or amenity related issue:

Environment

- There are, or there is the potential to have, detrimental effects to the natural environment including waterways, lands or air
- There is, or there is the potential for, water pollution
- There is movement of stormwater off a site into adjoining lands
- There is cut and fill, and the potential for contaminated soils, or fill which does not meet required standards
- There is land degradation or pollution emissions (including odour or noise) that is interfering with the natural environment
- Noxious weeds are present
- There are unacceptable levels of smoke emissions from a residential premises

Amenity

- There is evidence of an adverse impact on the amenity of a local area. This may relate to the individual localities and/or villages and/or rural settings, or the Shire as a whole
- Objects, materials and/or structures located either in a public place, or within view of a public place, are causing a visual amenity issue and detracting from the amenity of the locale
- Objects, materials and/or structures located either in a public place or within a road reserve are causing a hazard or nuisance
- Noise emissions are inappropriate for the locale
- There is, or there is the potential for, an annoyance or threat to the safety of users of a public place
- Materials or structures pose a risk to pedestrians or vehicular traffic

Where an activity is being undertaken in/on a public place, Council will consider the issue of an Order where activities are not in line with our **Local Approvals Policy**, as well as any activity being undertaken without approval, or an activity being undertaken outside of the conditions of an approval. Furthermore, should the activity (whether approved or not) cause an annoyance or danger to the public, Council may consider the issuing of an Order.

Advertising signage must be undertaken in accordance with Council's **Development Control Plan**.

In assessing the issuing of an Order for **smoke emission matters**, Council will consider if any residential woodsmoke constitutes an offence under the *Protection of the Environment Operations Act 1997*, if the fuel heater has been installed by an accredited installer, complies with relevant Australian Standards, is an approved system, if the system has been installed so as to minimise the impact of smoke on the locale and is in accordance with the relevant state guidelines.

In assessing the issuing of an Order for **noise emission matters**, Council will consider if any emissions constitute an offence under the *Protection of the Environment Operations Act 1997*. Council recommends the following approach to handle noise matters in the first instance:

- (a) Aim to solve the problem in a cordial manner with the person/s causing the noise, as often people do not realise they are causing a noise annoyance
- (b) Where noise emissions continue, you can investigate a range of steps explained at <https://www.legalaid.nsw.gov.au/my-problem-is-about/my-neighbour/noise> , including making an application to the Local Court for a noise abatement order.
- (c) You can contact Council for investigation and Council's Officers will then advise on the best course of action.

NOTE – Private individuals can approach the Local Court to seek a Noise Abatement at any time. Where the Court is satisfied, it will issue the abatement to cease the noise emissions. This process can be undertaken independently of Council.

Stormwater must be controlled wholly within the premises from which it originates. Buildings and other developed hardstand areas play a major role in contributing to the concentration of stormwater flows, and it is therefore the owner's responsibility to control stormwater within any given lands. In assessing whether an Order should be issued for stormwater matters Council will consider:

- if lack of controls are contributing to an increase of surface flows to other properties
- if there are defective stormwater controls including pipework, drains, guttering and downpipes
- if there is the obstruction of a natural watercourse
- if discharge is directed to an adjoining property

Water pollution is directly referenced through State Legislation. Council will consider the issue of an Order for anything that changes, or has the potential to change the physical, biological or chemical composition of a waterway.

PART 2 – HEALTH AND SAFETY

Local Orders Policy – PART 2 – Health and Safety

ASSESSMENT CRITERIA

Tenterfield Shire Council has been vested with responsibility for a number of regulatory provisions related to public health and safety.

Council may take action with the aim to remedy issues raised by lodgement of complaints or through Council's officers noting potentially serious matters onsite. Council will account for the following criteria when deciding if an Order should be issued for a health or safety related issue:

Health and Safety

- Land or premises are not considered to be in a healthy or safe condition
- Land or premises are in a condition that affects the healthy amenity or safety of the surrounding areas
- There is a life threatening hazard or a serious threat to public health or public safety
- Health of persons is likely to be detrimentally affected
- There is a past history of non-compliance
- There is an obstruction of a public space or public service that may cause a hindrance or annoyance
- There is an obstruction of a public space or public service that may cause a hazard
- Conditions are being presented that are a danger to, or are injurious to adequate health
- Relevant codes and/or standards are not being adhered to

In the case of public safety from **buildings and/or temporary structures**, Council will consider compliance with the *National Construction Code* conditions of Development Consents issued, if approvals have not been obtained, as well as egress, fire safety and signage issues when considering the issue of an Order.

When considering the issues of an Order for **unsightly or unhealthy premises**, Council will assess the potential for fire hazards, as well as the ability for conditions to harbour pests or vermin. Furthermore, Council will consider the impact of a premises on the visual amenity of a locale.

In determining the potential for the issue of an Order for **dumped rubbished and abandoned vehicles**, Council will consider if the object/s are causing an

encroachment or obstruction of a public place, a danger or annoyance to the public, or has the potential to cause an environment or amenity issue.

In determining issues for **food businesses or mobile food premises**, Council will consider compliance with the *Food Act 2003* and associated standards/codes.

Overgrown vegetation on premises will be assessed against:

- The type of vegetation (native vegetation and horticultural plantings generally are not considered to constitute overgrown vegetation)
- The proximity of vegetation to a habitable building or high risk premises (such as a school, hospital, childcare centre, etc.)
- If the volume of vegetation may present conditions suitable for the harbourage of vermin or pests (including snakes, rates, mice, etc)
- If the vegetation is of a type that will render the land unsafe or unhealthy
- If the vegetation presents any type of fire risk

In assessing the issue of an Order for **onsite septic systems and connection to sewer**, Council will consider if there is a viable connection to sewer point within 75 metres from the premises, if the existing system presents a risk to the health of persons or the environment, if the existing system is operating properly, if there is an existing approval to operate the system, and if the conditions of any approval to operate are being adhered to.

Where systems do not meet the terms of Council's On-site Sewerage Management Policy, or the terms of relevant codes and/or Australian Standards, Council may consider issuing an Order to bring a system into compliance.

Council will require connection to sewer where it is available within 75 metres from a premises.

When considering the issue of an Order for a private swimming pool or spa, Council will consider if there is a current certificate of compliance for the swimming pool, the pool requires a child resistant barrier, fencing, signage, or other requirements under relevant standards and codes. Furthermore, Council will consider any deficiencies in existing infrastructure to meet relevant Australian Standards,

NOTE – Legislation regarding swimming pools (both indoor and outdoor) does not apply to pools situated on Crown Lands or those occupied by a public authority. Australian Standard 1926 can be referenced for requirements of swimming pool safety.

In considering the issue of an Order for a **commercial swimming pool or spa**, Council will consider the frequency and results of water quality testing, record keeping for testing, general cleanliness, the availability of on-site water quality testing equipment and the accuracy of such equipment and record keeping.

In considering the issue of an Order for **unclean and untidy premises**, Council will consider the following:

- accumulation of any rubbish
- presence of bed-bugs, bird roosts or other pests or vermin on the premises
- waste not being appropriately stored or removed from the premises
- existence of broken glass

- presence of accumulated building materials, abandoned materials, organic materials or vegetation
- breeding grounds for mosquitoes, rates, pigeons, snakes or any other perceived pest

Unhealthy buildings can present significant hazards to the occupier of a premises, as well as visitors and any adjoining premises or lands. In considering the issue of an Order for unhealthy buildings, Council will consider the following:

- fire damage
- potential for structural deficiencies or collapse of building
- defective ceilings, floors, stairs, walls, frames or finishing materials
- awning safety overhanging a public place
- dampness in walls and other internal cavities of a building
- lack of a healthy water supply
- lack of basic amenities including (but not limited to) kitchen, toilet, laundry and provision of hot and cold water
- safety features (such as balustrades) have deteriorated to present a hazard to persons and no longer meet the requirements of the Building Code of Australia (BCA), and/or no longer meet the requirements of relevant codes and/or standards
- broken windows, and/or lack of openable windows
- plumbing installations (waste disposal) that do not meet relevant codes or standards, or that present a hazard to human health or the environment

PART 3 – COMPLIANCE WITH APPROVALS

Local Orders Policy – PART 3 – Compliance with Approvals

ASSESSMENT CRITERIA

Tenterfield Shire Council is the consent authority for a range of development related matters. Council is also the Appropriate Regulatory Authority (ARA) for a range of building and development planning matters, including implementation of codes, standards and statutory regulations.

Council may take regulatory action to remedy development related matters where works are not in accordance with relevant regulations/codes/standards, where development has occurred without required consents or approval, where development has been undertaken in non-accordance with an issued consent, and where development has been carried out in areas that prohibit that type of development. Any of these situations may cause Council to issue an Order. Council will account for the following criteria when deciding if an Order should be issued for a compliance with an approval related issue:

Impact

- Actual or potential detrimental effect to the natural or built environment is perceived
- There is an actual or potential health or safety risk to residents or the amenity of the locale
- The stability of a structure is likely to become a danger to persons or adjoining structures
- The stability of a structure is presenting a danger to persons or adjoining structures
- There are inadequate measures in place to protect the health and safety of persons
- There is an adverse impact on the environment and/or public health

Unlawful Activity

- Work is or has been carried out without required development consent, construction certificate, complying development certificate, approval, permission or licence
- Work is or has been carried out not in accordance with an issued development consent, construction certificate, complying development certificate, approval, permission or licence
- Work is or has been carried out in contrary to a planning instrument, including but not limited to the Local Environmental Plans (LEP)

Local Orders Policy – PART 3 – Compliance with Approvals

- Work has been or is being carried out in non-accordance with a required code or standard
- Work is or has been carried out in contrary to a statutory provision regulating a particular activity

Demolition works can either be directed to cease, be undertaken by Council through the issuing of an Order, or buildings be reinstated as they were prior to demolition.

Council will consider the following in determining the potential to issue an Order to undertake demolition works:

- Development consent was required for building works but not obtained, and the development has been undertaken in a zone in which that development is prohibited
- Works have been undertaken and a structure constructed which does not meet relevant standards, regulations and/or codes including but not limited to the Building Code of Australia
- Works have been undertaken without approval or development consent which are not exempt development, and are not sympathetic to the surrounding locale including but not limited to heritage areas and rural settings
- Structure/s are unsightly and/or structurally inadequate
- Council has tried to work through attaining possible approvals with the owner for works that have not attained development consent to no avail

Or to cease undertaking demolition works:

- Works are not being carried out by a competent person
- Development consent was required for demolition works but not obtained
- The item is within a heritage conservation area, or is a listed heritage item
- Demolition methods are inappropriate and/or there is the possibility of impacts upon adjoining lands, buildings or structures
- Materials and matter such as dust, lead-based paint, asbestos or other building refuse are not being contained or disposed of in an appropriate manner

For unauthorised use where a structure has been completed and/or used without development consent or not in accordance with the conditions of a consent, Council will consider if the development is capable of attaining development consent, if the land use is permissible within the zone, if the development or structure is capable of supporting the proposed use, in determining the issue of an Order.

NOTE – Building works that are unauthorised may be assessed by Council on a case by case basis to determine if the issue of a building certificate is an option as opposed to demolition. Furthermore, development consent will be required to regularise use where it can be considered.

Where non-compliance with an approval or consent is noted, Council will consider the following criteria in determining the issue of an Order:

- If the works are inconsistent with an issued consent, certificate or approval and/or standard
- If the work presents a non-compliance with regulation or a statutory standard, code or Council policy
- The degree of non-compliance such as an inconsequential technical breach

In determining the applicability of the issue of an Order for identification of premises, Council will consider if there is duplication or inconsistency in street numbering, or difficulties in correctly identifying or locating a property, premises or business.

PART 4 – BUILDING FIRE SAFETY

Local Orders Policy – PART 4 – Building Fire Safety

ASSESSMENT CRITERIA

Tenterfield Shire possesses extremely strong heritage characteristics, which include a number of historic buildings spanning back over 150 years. This gives rise to a number of difficulties when applying current fire safety requirements for commercial premises. As a number of historic buildings are used as hotels, bed and breakfasts, shops and commercial purposes, there is a risk to the public and persons with respect to fire safety requirements that needs to be mitigated throughout the Shire.

Building Fire Safety programs aim to address any fire safety issues to protect the safety and lives of people who use the building and protect any surrounding buildings in the event of a fire.

Fire safety measures are included in development application proposals and consents for new structures and buildings, however, may not be adequately addressed for existing and historical buildings.

NOTE – Any building that is not a single residential premises is required to have fire safety measures assessed annually and have a formal Annual Fire Safety Statement presented to Council, the NSW Fire brigade, and displayed in a prominent position in the building. Building owners and occupiers should be aware of their obligations regarding fire safety measures.

In determining whether to issue an Order for a building fire safety issue, Council will consider:

- If the building is not a single residential premises, or is of a class of building that requires essential fire safety measures
- If the building has inadequate fire safety measures in accordance with the requirements of the Building Code of Australia
- If Council has addressed the implementation of essential fire safety measures via the issue of an Order, and these have not been addressed by the appropriate person, leading to a high risk to persons or surrounding buildings/structures

NOTE – If a Fire Safety Order is not complied with within the specified timeframe, Council may issue a separate Order for the cessation of use of the building to ensure the protection of persons and human life.

PART 5 – ANIMALS

Local Orders Policy – PART 5 - Animals

ASSESSMENT CRITERIA

Companion animals are a great asset to people, providing health, wellbeing, social and mental benefits. However, where not appropriately managed, companion animals can have an impact on neighbourhoods and residents, the health and safety of people, as well as the environment. Furthermore, animal wellbeing can be affected through neglect and lack of care.

In determining the potential issue of an Order for animal related matters, Council will consider the following:

Amenity

- Animals are not contained within a property on a habitual or recurring basis
- Animals have attacked or presented a nuisance or hazard to persons
- Animals are leading to the presence of pets including ticks, fleas, vermin, mosquitoes or otherwise
- Animals are dangerous or have displayed aggression
- Keeping of animals is creating unsanitary and/or unhealthy conditions for people or for the animals
- There is persistent uncontrolled animal noise that unreasonably interferes with the amenity of the surrounding area
- The mix and number of animals is inappropriate for the location
- Animals are being kept in non-accordance with Council's **Local Orders for the Keeping of Animals in Urban Areas of Tenterfield Shire** policy

Environment

- Animals are presenting detrimental effects to the environment
- Animals, or the keeping of animals, is presenting degradation of ecosystems
- Keeping of animals is presenting potential water pollution issues through runoff, or runoff is affecting neighbouring properties
- There is predation on local and/or native fauna from animals

Wellbeing

- Conditions for the keeping of an animal is poor and/or neglectful
- Animals display a lack of training and/or anxiety
- Accommodation for the keeping of animals is poor and/or neglectful
- Owners are neglecting to provide daily care

NOTE – Council will not enter a private property to seize an animal for the purposes of attending to neglect or cruelty. In these instances, residents should contact the RSPCA for action to be taken.

Council has a comprehensive policy **“Local Orders for the Keeping of Animals in Urban Areas of Tenterfield Shire”** that deals with specific criteria for the keeping of animals in urban areas (including residential areas) within the Shire. Council will make reference to the details of the **“Local Orders for the Keeping of Animals in Urban Areas of Tenterfield Shire”** policy in determining the issue of an Order under this policy.

Council is not the appropriate regulatory authority for issues arising from apartment, shared housing or townhouse/strata development, where disputes between neighbours are apparent. In these cases the development’s management should be contacted to resolve companion animal issues.

This part generally does not apply to rural lands or agricultural lands (land zoned RU1) under the Tenterfield Local Environment Plan 2013. This does not, however, preclude Council from issuing an Order in exceptional circumstances.

NOTE – For prescriptive measures on the keeping of animals in urban areas, please refer to Council’s “Local Orders for the Keeping of Animals in Urban Areas of Tenterfield Shire” policy, which can be found on our website at www.tenterfield.nsw.gov.au

End note – Where there is inconsistency between any part of this local policy and any Act or Regulations, the inconsistent parts of this policy shall be void and the relevant statutory provisions shall prevail.

LOCAL ORDERS PRINCIPLES

PRINCIPLE	ACTION
Proportionality	<ul style="list-style-type: none"> • Where the level of risk is High, and previous enforcement options have been exhausted, then action will be escalated to an Order or Notice under relevant legislation being served
Consistency	<ul style="list-style-type: none"> • Ensuring that similar issues are dealt with in the same way • Acting fairly and impartially, without bias or unlawful discrimination
Transparency	<ul style="list-style-type: none"> • Ensuring that what we do and why we do it is easily understood, i.e. being open about the way we go about doing things • Ensuring reasons for decisions are given to relevant parties, particularly when there is a departure from this policy • Public disclosure is an integral part of both specific and general deterrence. The disclosure of information relating to Council’s compliance and enforcement activities is undertaken in accordance with the requirements of the GIPA Act and Regulation

	<ul style="list-style-type: none"> Continuing to improve community awareness of compliance and enforcement matters through Council's media avenues
Customer Service	<ul style="list-style-type: none"> Working with the business or individual to achieve compliance with the law by being approachable, courteous and efficient
Prioritising	<ul style="list-style-type: none"> Ensuring that resources are targeted primarily on the unlawful activities that pose the most serious risk
Timely Response	<ul style="list-style-type: none"> Ensuring Council's responses and decision making in respect of reports alleging unlawful activity is timely
Accountability	<ul style="list-style-type: none"> Acting in the best interests of public health, safety and the environment Only officers with the appropriate appointment or delegations are authorised to approve an enforcement action. They are required to comply with this policy, Council's code of conduct and disclosing pecuniary interests Acting on any complaints or concerns about the conduct of compliance and enforcement officers in accordance with Council's Complaints and Unreasonable Conduct Policy Council may seek legal advice prior to proceeding with more serious enforcement actions, such as prosecution

ACCOUNTABILITY, ROLES AND RESPONSIBILITY

Elected Council

Councillors are elected representatives and comprise the governing body of Council. This governing body has the role of directing and controlling the affairs of the Council in accordance with the Local Government Act.

As councillors are members of the Council's governing body, they are required to perform civic duties and fulfil a leadership role for the community.

Decision making relating to the investigation of reports alleging unlawful activity and taking enforcement action is the responsibility of appropriately authorised council staff or the council itself. Individual councillors do not have the right to direct council staff in their day-to-day activities. Councillors can help individuals who raise concerns with them by satisfying themselves that their council's policies are being carried out correctly, however they cannot ignore or alter a policy in order to satisfy the demands of special groups.

Leadership and Management

- General Manager
- Leadership Executive Management Team
- Manager Planning & Regulation
- Open Space, Regulatory & Utilities Supervisor

are responsible for the development, approval and maintenance of procedures that support Council's policies.

Council Staff

Will provide administration support.

Compliance and enforcement officers should:

- attend all relevant training provided by Council
- familiarise themselves with all relevant council policies and council expectations of their role
- abide by council's Code of Conduct
- apply the principles of good administrative conduct and decision-making discussed in these guidelines
- apply principles of good communication, customer service and complaint handling
- make accurate records of their investigations, inspections and decisions

Shared Enforcement Responsibilities

Some reports will raise matters involving shared regulatory responsibilities between council and other authorities including the Environment Protection Authority, the NSW Department of Primary Industries (DPIRD), the NSW Police Force, the Office of Liquor, Gaming and Racing, NSW Fair Trading, NSW Food Authority and Crown Lands.

POLICY DEFINITIONS

Definition	Meaning
Building Code of Australia (BCA)	The BCA contains technical provisions for the design and construction of buildings and other structures.
Council	Tenterfield Shire Council
Enforcement	<ul style="list-style-type: none">• action taken against parties in response to evidence of unlawful activity• processes preceding such action: responding to allegations of breaches, inspecting, assessing and investigating potential unlawful activity• processes prior to making a decision not to enforce the law in particular circumstances, despite evidence or allegations of non-compliance
Local environmental plans (LEPs)	LEPs are the main planning tool for shaping the future of communities and ensuring local development is done appropriately
Order	An enforcement notice, order or direction given by Council that requires the recipient to take action within a specified time period. Orders are issued to rectify a situation that has public health, safety, environmental, amenity implications or to remediate unauthorised activities.
Regulation	Any function under an Act, Regulation or other statutory instrument which empowers local government to create, impose, enforce or administer rules that control the actions of others
Unlawful Activity	Any activity or work that has been or is being carried out contrary to the terms or conditions of a development consent, approval, permission or licence:

	<ul style="list-style-type: none"> • Contrary to the <i>Tenterfield Shire Local Environmental Plan 2013</i> as amended, that regulates the activities or work that can be carried out on particular land; • Contrary to a legislative or policy provision regulating a particular activity or work; • Without a development consent, approval, permission or licence; and includes unauthorised works and uses; and • Contrary to the laws of New South Wales in which Council is the regulatory authority.
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VERSION CONTROL & CHANGE HISTORY

Previous Versions	Date of Adoption by Council	Resolution #	Author/Editor	Summary of Changes
V1.0	25/03/15	70/15	Council	Adoption of Original Policy
V2.0	23/08/17	168/17	Council	Review/Amended Policy
V3.0	25/03/20	253/20	Council	Review/Amended Policy
V4.0	21/12/22	248/22	Council	Re adopted Policy
V5.0	22/06/26	150/26	Administration	Major review and amendment