



NAMBUCCA SHIRE COUNCIL

LOCAL ORDERS POLICY NO: DE 03

Our Vision

Nambucca Valley ~ Living at its best

Our Mission Statement

'The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.'

1. What is the name of this Policy?

This Policy ("the Policy") is called the Nambucca Shire Council Local Orders Policy 2015.

2. Where does the Policy apply?

It applies to the whole of the Nambucca Shire Council local government area.

3. What is the purpose of this Policy?

The Policy aims to:

- Make the Council's policies and requirements for orders readily accessible and understandable to the public.
- Ensure consistency and fairness in the manner in which the Council deals with issuing orders.
- Establish a system which can effectively resolve disputes and conflicts as they arise.

4. When will the Policy be revoked?

The Policy is 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: Automatic revocation of the Policy is provided for by Section 165 of the Local Government Act ("the Act").

Section 163 of the Act requires that the Policy is void if it is inconsistent with the Act and associated Regulations. Section 164 of the Act requires that the Policy cannot impose a more onerous criterion than does the Act or associated Regulations in relation to a specified aspect of anything for which an order may be given.

5. History

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PART 1 – CRITERIA Council MUST CONSIDER	4
Order No 1 (d)	4
Order No 3 (c).....	4
Order No. 5 (a) (b) (d) (e) and (f) – Various matters	5
Order No. 5 (g) & (h) – Water meter on premises and water and sewerage supply systems	5
Order No. 7 – Fence land	6
Order No. 8 – Identify premises.....	6
Order No. 9 - Water body	7
Order No. 10 - Articles.....	7
Order No. 11 – Environmental damage.....	8
Order No.12 – Control surface water	9
Order No.15 – Not conduct an activity.....	9
Order No.16 – Cease use or evacuate premises.....	10
Order No.17 – Leave or not enter premises	10
Order No.18 - Animals	11
Order No. 19 – Tennis court.....	11
Order No. 20 - Food	12
Order No. 21 – Safety and health	12
Order No. 22 – Waste.....	13
Order No. 22A – Removal of waste	14
Order No. 23 – Connect to water supply	15
Order No. 24 – Connect to sewerage system.....	15
Order No. 25 – Human waste	16
Order No. 27 – Public place, remove object or matter	16
Order No. 28 – Public place, prevent or repair damage	17
Order No. 29 – Public place, alter or repair work or structure.....	17
Order No.30 – Comply with an approval.....	18
Order under Section 125 of the Local Government Act 1993	18
PART 2 – OTHER MATTERS RELATING TO ORDERS	19
1 What must Council consider before giving an order?	19
2 What must be done before an order is served?.....	19
3 Who can make representations?	19
4 How should representations be made and considered?	19
5 What does Council do after hearing representations?	19
6 Are there any exemptions to these procedures?	19
7 What information should the order contain?.....	20
8 How long does Council have to consider whether the proposed works meet the standards specified in an order?	20
9 Can Council recover any expenses involved in this process?	20
10 How do orders affect heritage items?	20
11 How is an order given and when does it take effect?	20
12 Does Council have the power to give an order under another act?	21
13 What happens when a person fails to comply with an order?	21
14 Is an approval necessary for work to be undertaken?.....	21
15 Must an occupier of land permit an owner to carry out work?.....	21
16 Can Council carry out the works?	21
17 What rights of appeal does a person have against an order or part of an order?.....	21
18 Does the appeal prevent the order from operating?	21
19 Is a building owner entitled to any compensation from Council for expenses involved in complying with an order?	21
20 Overview of legal process to issue an order	22
21 Dictionary	23

Local Government Act 1993

There are various statutory criteria that Council must consider when giving an order, as imposed by the Local Government Act 1993, as well as standards derived from the Local Government (General) Regulation 2005. This Policy also adopts additional criteria for consideration.

Details of the various types of orders are provided under the respective headings below, including:

- a) To do what? What types of action can be required to be taken?
- b) In what circumstances? These contain restrictions on the particular circumstances in which an order may be given.
- c) To whom? Whom must the order be issued to?

Order No 1 (d)

To demolish or remove a building

In what circumstances?

Building is erected in a catchment district and causes or is likely to cause pollution of the water supply

To whom?

Owner of building

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration, where relevant:

- a) Whether there is a change (through an act or omission) to the physical, chemical or biological condition of the waters as a result of any pollution;
- b) Whether (through an act or omission) refuse, litter, debris or other matter, whether solid or liquid or gaseous, makes, or is likely to make, the waters unclean, noxious, poisonous or impure, detrimental to the health, safety, welfare or property of persons, undrinkable for farm animals, poisonous or harmful to aquatic life, animals, birds or fish in or around the waters or unsuitable for use in irrigation; and
- c) The type and/or extent of controls in place to prevent spills and/or water pollution.

Order No 3 (c)

To repair or make structural alterations to a building

In what circumstances?

Building is erected in a catchment district and causes or is likely to cause pollution of the water supply

To whom?

Owner of building

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration, where relevant:

- a) Whether there is a change (through an act or omission) to the physical, chemical or biological condition of the waters as a result of any pollution;

- b) Whether (through an act or omission) refuse, litter, debris or other matter, whether solid or liquid or gaseous, makes, or is likely to make, the waters unclean, noxious, poisonous or impure, detrimental to the health, safety, welfare or property of persons, undrinkable for farm animals, poisonous or harmful to aquatic life, animals, birds or fish in or around the waters or unsuitable for use in irrigation; and
- c) The type and/or extent of controls in place to prevent spills and/or water pollution.

Order No. 5 (a) (b) (d) (e) and (f) – Various matters

To do what?

To take such action as is necessary to bring into compliance with relevant standards or requirements set or made or under this Act:

- 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 or beauty salon
- f) a mortuary

In what circumstances?

Failure to comply with relevant standards or requirements set or made by or under this Act

To whom?

Owner, occupier or manager

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration, where relevant:

- a) The provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. See Clause 82 of the Local Government (General) Regulation 2005.
- b) Schedule 2, Part 1-“Standards for Place of Shared Accommodation” in the Local Government (General) Regulation 2005. See Clause 83 of the regulation.
- c) Schedule 2, Part 2-“Standards for Hairdresser Shops” in the Local Government (General) Regulation 2005. See Clause 84 of the regulation.
- d) Schedule 2, Part 3 “Standards for Beauty Salons” in the Local Government (General) Regulation 2005. See Clause 85 of the regulation.
- e) Schedule 2, Part 4 “Standards for Mortuaries” in the Local Government (General) Regulation 2005. See Clause 86 of the regulation.

Order No. 5 (g) & (h) – Water meter on premises and water and sewerage supply systems

To do what?

To take such action as is necessary to bring into compliance with relevant standards, or requirements set or made or under this Act:

- a) a water meter, water supply or sewerage system on premises, but only in relation to any work that is not plumbing and drainage work within the meaning of the Plumbing and Drainage Act 2011.

In what circumstances?

Failure to comply with relevant standards or requirements set or made by or under this Act. Also see Clause 88 of the Local Government (General) Regulation 2005.

To whom?

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 Home Building Act 1989 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 contractor.

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration, where relevant:

- a) Whether the circumstances have arisen within 12 months of work being undertaken on the affected part of a water meter, water supply or sewerage system by a licensed contractor;
- b) Whether an order has been made, or is being considered, by the Consumer, Trader and Tenancy Tribunal under the Home Building Act 1989 against a licensed contractor;
- c) Whether the circumstances are unrelated to the work of a licensed contractor.

Order No. 7 – Fence land**To Do What?**

To fence land

In What Circumstances?

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

To Whom?

Owner or occupier of land

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) Whether the condition, location or use of the land poses a threat to the health, safety and convenience of the public.

Order No. 8 – Identify premises**To Do What?**

To identify premises with such numbers or other identification in such a manner as is specified in the Order

In What Circumstances?

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

To Whom?

Owner or occupier of land

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) Whether there is unauthorised use of, or duplication of, numbers;
- b) Whether numbers are not in accordance with the street patterns;
- c) Whether there is potential for confusion in the identification of premises; and
- d) Whether the owner/occupier had not complied with Council's request for rectification.

Order No. 9 - Water body

To Do What?

To fence, empty, fill in or cover up a hole or waterhole in the manner specified in the Order

In What Circumstances?

Hole or waterhole is or may become dangerous to life

To Whom?

Owner or occupier of land

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) The hole or waterhole is located within or adjoining/adjacent to an urban area and is directly accessible from a public place or another private property, and/or
- b) The hole or waterhole is not adequately covered or fenced to the minimum requirements of the Swimming Pools Act 1992 to prevent direct access to it from a public place or any other private property, and/or
- c) The nature, location and depth of the hole or waterhole are considered to be dangerous to life.

Criteria Does Not Include:

Any hole or waterhole that falls under the definition of a swimming pool as defined in the Swimming Pools Act 1992, or one that is located outside of an urban area except for a) above.

Order No. 10 - Articles

To Do What?

To remove or stack articles or matter, to cover articles or matter, to erect fences or screens or to plant trees

In What Circumstances?

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

To Whom?

Owner or occupier of land

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) Definition of "article" or "matter" includes but is not limited to:-
 - I. Disused motor vehicles, caravans, trailers, boats or associated parts;

- II. Disused machinery, equipment and appliances;
 - III. Old, used or second-hand materials (including building materials);
 - IV. Sand, soil, rock, blue metal and any other material derived from any extraction or dredging process;
 - V. Any organic or vegetative material;
 - VI. Any industrial or commercial waste products;
 - VII. Any household rubbish or waste;
 - VIII. Any recycled or composted material;
 - IX. Furniture.
- b) Definition of “Land in the immediate vicinity of a public place” is any land that immediately adjoins a public place.
 - c) The article(s) or matter must be visible from the public place.

Order No. 11 – Environmental damage

To Do What?

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

In What Circumstances?

Work carried out on land has caused or is likely to cause environmental damage, being damage to the physical environment that is caused by:

- a) drainage; or
- b) drainage works; or
- c) 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

To Whom?

Owner or occupier of land

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

Physical environmental damage must be as a result of the flow of water over any land, discharged from the following sources:

- a) Drainage, being a drain or system of drains, whether artificial or natural, which are designed for the carrying of water other than sewerage and which includes a natural water course, or;
- b) Drainage works, being any part of the on-site process involved in the construction of a drain or drainage system and which includes, but is not limited to site excavation, materials, compiling and any associated buildings works, or;
- c) Obstruction of a natural water course, being the carrying out of building works or the deposition of any material in such a position as to block or restrict the flow of water within or to redirect the flow of water away from a natural water course.

Order No.12 – Control surface water

To Do What?

To do such things as are necessary to control the flow of surface water across land

In What Circumstances?

Other land, or a building on the land or other land, is being damaged or is likely to be damaged

To Whom?

Owner or occupier of land

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) Erosion of land is occurring from the flow of surface water.
- b) Physical damage to a building is or has occurred or there is sufficient evidence to suggest that it is likely to occur.
- c) Surface water flows across the land boundary onto other land.

Situations where this Order may apply include, but are not limited to:

- a) Water from defective guttering, down pipes or drainage (including underground drainage pipes).
- b) Water from roofs not fitted with guttering.
- c) Emptying or backwashing swimming pools.
- d) Surface water that has been purposely redirected away from its natural direction of flow towards other land.

Criteria Does Not Include:

- a) Stormwater runoff which is NOT redirected in any manner (i.e. natural surface flow) and follows existing natural land contours.
- b) Surface water runoff occurring in periods of exceptionally heavy rain.
- c) Surface water flowing down existing hard surface areas such as driveways, tennis courts, concrete slab or paved areas unless drainage has not been adequately addressed due to the size and slope of catchment.
- d) Discharges from defective or blocked private stormwater easements.
- e) Overflows from absorption pits where contours of land and lack of access prevent direct connection of a building's stormwater drainage system to Council's Stormwater Drainage System.
- f) Runoff from any building or development work that is the subject of a Development Consent and has been constructed in accordance with that consent.
- g) Any circumstance in which the flow of surface water across land is capable of being regulated by the Environmental Protection Authority constitutes a circumstance where an order No 12 cannot be made.

Order No.15 – Not conduct an activity

To Do What?

Not to conduct, or to cease conducting, an activity on premises (whether or not the activity is approved under this Act)

In What Circumstances?

The activity constitutes or is likely to constitute:

- a) a life threatening hazard; or
- b) a threat to public health or public safety

and is not regulated or controlled under any other Act by a public authority

To Whom?

Any persons apparently engaged in promoting, conducting or carrying out the activity

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration.

- a) The activity being carried out is causing or is likely to cause a life threatening hazard or a threat to public health or public safety to any person whether on private or public land.

Situations where this Order may apply include, but are not limited to:

- a) Use of a defective septic tank or a septic closet on premises after the date specified (in an Order No 24 served on the owner or occupier of the premises) being the date by which the premises were required to be connected with a sewerage system
- b) Construction work on a septic tank or a septic closet on premises after the date specified (in an Order No 24 served on the owner or occupier of the premises) being the date by which the premises were required to be connected with a sewerage system

Criteria Does Not Include:

- a) Any activity that is covered by any other Act or Regulation
- b) Any activity that is controlled by another authority

Order No.16 – Cease use or evacuate premises

To Do What?

To cease the use of premises or to evacuate premises

In What Circumstances?

A person to whom Order No. 15 is given has failed to comply with the Order

To Whom?

The person to whom Order No. 15 is given

Criteria

No additional criteria

Order No.17 – Leave or not enter premises

To Do What?

To leave premises or not to enter premises

In What Circumstances?

A person to whom Order No. 15 is given has failed to comply with the Order

To Whom?

Any person

Criteria

No additional criteria

Order No.18 - Animals**To Do What?**

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

In What Circumstances?

Birds or animals kept on premises are:

- a) in the case of any premises (whether or not in a catchment district) - of an inappropriate kind or number or are kept inappropriately; or
- b) 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

To Whom?

Occupier of premises

Criteria

Please see Appendix 1 for detailed criteria regarding a) birds or animals of an inappropriate kind or number or are kept inappropriately.

In the case of b) premises in a catchment district, when determining whether a Notice of Proposed Order or Order is to be given, the following additional criteria are to be taken into consideration, where relevant:

- a) Whether there is a change (through an act or omission) to the physical, chemical or biological condition of the waters as a result of any pollution.
- b) Whether (through an act or omission) refuse, litter, debris or other matter, whether solid or liquid or gaseous, makes, or is likely to make, the waters unclean, noxious, poisonous or impure, detrimental to the health, safety, welfare or property of persons, undrinkable for farm animals, poisonous or harmful to aquatic life, animals, birds or fish in or around the waters or unsuitable for use in irrigation.
- c) The type and/or extent of controls in place to prevent spills and/or water pollution.

Order No. 19 – Tennis court**To Do What?**

To use or not to use a tennis court as specified

In What Circumstances?

Actual or likely annoyance or threat to the safety of neighbours or users of a public place

To Whom?

Occupier of land

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) Tennis courts are not to be used after sundown unless otherwise approved by Development Consent.
- b) Tennis courts on private property shall not be used for commercial purposes without Development Consent being issued, i.e. for hire to non-residents of the property.

Order No. 20 - Food

To Do What?

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

In What Circumstances?

The premises, vehicle or article, is not in a clean or sanitary condition

To Whom?

Owner or occupier of premises or owner or operator of vehicle or article

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) The premises, including any fixtures, fittings, utensils and equipment, has not been adequately cleaned and there are accumulations of dirt, dust, grease, oil, food matter or any other matter that could contaminate or likely contaminate any food stuffs present on the premises
- b) The food handling procedures and hygiene standards of operators create such unsanitary conditions that will cause contamination or is likely to cause contamination of any food stuffs present on the premises
- c) There is "non-compliance with the following standards that cause the premises to be in an unclean or unsanitary condition as described above:
 - I. The Australia New Zealand Food Standards Code.
 - II. Australian Standard 1668.2 The Use of Ventilation and Air Conditioning in Buildings – Ventilation Design for Indoor Air Contaminant Control.
- d) In the case of water carting vehicles (See Clause 93 of the Local Government (General) Regulation 2005):
 - I. Whether a vessel used on a vehicle to cart water has an aperture that is large enough to enable easy inspection of the interior or thorough cleaning of the interior.
 - II. Whether the cover of any such aperture is of a kind that is able to be kept thoroughly clean.

Order No. 21 – Safety and health

To Do What?

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

In What Circumstances?

The land or premises are not in a safe or healthy condition

To Whom?

Owner or occupier of land or premises

Criteria

Land or premises would be considered not to be in a safe and or healthy condition if the safety or the health of the owner or occupier of the land or premises, or the community, is detrimentally affected. Criteria and actions that need to be considered include, but are not limited to:

- a) The abatement of dampness in walls and ceilings in any property;
- b) The repair of leaky roofs and renewal or repair of defective guttering and downpiping [where it causes health & safety issues and not damage - See Order 12];

- c) Provision of adequate wholesome water supply;
- d) The renewal of broken window glass and sash cords to render windows capable of being opened top and bottom;
- e) The removal of defective floor timbers and stair treads and replacement with sound material;
- f) The renewal or repair of waste pipes and sanitary fittings and flush pipe to water closet pans;
- g) Clearing of choked sewerage service pipes;
- h) Repair of defective septic tanks, pipes and absorption pits;
- i) The removal of the following accumulations which are likely to afford harbourage for vermin or otherwise pose a threat to health and safety to any person:
 - I. disused and/or second-hand building materials or household fixtures and fittings;
 - II. dilapidated and/or abandoned motor vehicle or ancillary parts and accessories or machinery;
 - III. dilapidated and/or abandoned boats, watercraft, trailers or caravans;
 - IV. disused and/or second-hand containers, bottles, scrap metal, waste paper, rags, rubbish or other scrap materials; and
 - V. tree trunks, tree stumps, organic material, vegetation (please see below for specific criteria relating to overgrown land) or firewood;
- j) Provision of suitable facilities for toilet, kitchen sink, bathing and for washing of clothes with hot and cold water provided;
- k) Provision of suitable cooking facilities;
- l) The control of animal enclosures insofar as their operational aspects in relation to environmental health is concerned;
- m) The treatment of an untreated swimming pool or excavation where the condition of the water within is or is likely to be breeding mosquitoes;
- n) The boarding up or fencing off of a dilapidated building to prevent unauthorised access where there is a safety issue from injury or fire;
- o) Cleaning of garbage containers;
- p) Potential for collapse of a structure, or part thereof, such as a wall, fence or other building; and
- q) Disconnection of an electric fence from its energiser or otherwise rendering it inoperable.

Criteria Does Not Include:

Defective retaining walls, buildings or structures that are dilapidated or appear defective if they:

- a) are located on private property; and
- b) would not impact upon any adjoining public land if they were to collapse; and
- c) would not pose a threat to health and safety of persons on the adjoining public land in any way.

Where the condition of land or premises in respect of health or safety is capable of being regulated by the Environment Protection Authority, Council is excluded from making Order No. 21.

Specific Criteria for Overgrown Land

- a) The property is located in the following residential or business zones (R1, R2, R3, R4, RU5, B1, B2, B3, B4 or B7) - Council will not respond to requests in relation to overgrown vegetation in rural or industrial areas; and
- b) The vegetation is more than 600mm in height; and
- c) Over 50% of the land is overgrown to a minimum height of 600mm; and
- d) Overgrown vegetation is within 10 metres of the complainant's dwelling or alternatively within 5 metres of their property boundary; and

- e) Detailed information/evidence of the harbourage of vermin and impacts upon the complainant are provided.

Council will not action complaints based upon "unsightliness" or complaints from residents outside the "proximity" criteria above.

Complaints will not be accepted where the alleged overgrown vegetation is located within close proximity to green corridors, environmentally sensitive land, reserves, bushland and water courses. Please note overgrown vegetation does not include native vegetation that is protected under the Threatened Species Conservation Act 1995 or the Native Vegetation Act 2003.

Council will not respond to customer requests in relation to the potential fire risk of overgrown vegetation as these requests should be directed to NSW Rural Fire Service.

If overgrown vegetation is considered to be in a state in which it is likely to render the land unsafe or unhealthy Council may initiate regulatory action. This would include vegetation that due to the unkempt nature would likely be a harbourage for or to encourage vermin. Native mice, native rats and snakes are not considered to be vermin and are protected under the National Parks and Wildlife Act 1974. If snakes are causing concern, it is recommended that the National Parks and Wildlife Service or a wildlife rescue/relocation service be contacted.

Order No. 22 – Waste

To Do What?

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 the regulations made under the Protection of the Environment Operations Act 1997

In What Circumstances?

Waste is present or generated on the land or premises and is not dealt with satisfactorily, and is not regulated or controlled by, or subject to, a licence or notice issued under the Protection of the Environment Operations Act 1997

To Whom?

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

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) Waste is being placed on the roadway for collection by Council not in the approved impervious receptacles with close-fitting lids that are provided by Council.
- b) Waste is present on land or premises and is not being properly stored, collected or removed satisfactorily from those premises.
- c) Defective site absorption septic tank system.
- d) Disposal of human waste on site without an approved method of waste disposal.

Order No. 22A – Removal of waste

To Do What?

To remove or dispose of waste that is on any residential premises or to refrain from keeping waste on those premises

In What Circumstances?

The waste is causing or is likely to cause a threat to public health or the health of any individual

To Whom?

Owner or occupier of premises

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) Waste has accumulated on the premises which is likely to afford harbourage for vermin or otherwise pose a threat to health and safety to any person

Order No. 23 – Connect to water supply**To Do What?**

To connect premises to the Council's water supply by a specified date

In What Circumstances?

The premises are situated within 225 metres of a water pipe of the Council

To Whom?

Owner or occupier of land

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) The distance from the premises to the connection point of the water supply must be no further than 225 metres and:
 - I. have legal access using an easement for water services over any adjoining premises to the water connection point, or
 - II. has access to the water supply located within an adjoining Council road reserve; and
 - III. connection to the water supply can only be made via a connection point established by Council.

Order No. 24 – Connect to sewerage system**To Do What?**

To connect premises with a sewerage system by a specified date

In What Circumstances?

The premises are situated within 75 metres of a sewer of the Council

To Whom?

Owner or occupier of premises

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) The distance from the premises to the connection point of the sewer must be no further than 75 metres and:
 - I. have legal access using an easement for sewerage services over any adjoining premises to the sewer connection point, or
 - II. has access to the sewer located within an adjoining Council road reserve; and
 - III. connection to the sewer can only be made via a junction point established by Council.

- b) Whether the existing sewage management facility is so defective to be a threat to public health and/or is or likely to have a detrimental impact on the environment.

Order No. 25 – Human waste

To Do What?

Not to use or permit the use of a human waste storage facility on premises after a specified date

In What Circumstances?

It is necessary for the purpose of protecting public health

To Whom?

Owner or occupier of premises

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) The human waste storage facility is so defective or poorly designed so as to permit human waste to discharge or overflow from the storage facility onto the adjacent ground or floor area and in such a manner to be a danger to the health of the public.

Criteria Does Not Include:

Where the use of human waste storage facilities is capable of being regulated by the Environment Protection Authority, Council is excluded from making an Order No. 25.

Order No. 27 – Public place, remove object or matter

To Do What?

To remove an object or matter from a public place or prevent any object or matter being deposited there

In What Circumstances?

The object or matter:

- a) 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
- b) is causing or is likely to cause danger, annoyance, or inconvenience to the public.

To Whom?

Person causing obstruction or encroachment or owner or occupier of land from which the object or matter is likely to emanate

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) Definition of object or matter: Any article, item or thing which is visible and tangible and includes but is not limited to:
- I. Advertising sign, advertisements generally;
 - II. Motor vehicles or motor vehicle parts;
 - III. Caravans or caravan parts;
 - IV. Trailers/boats or trailer/boat parts;
 - V. Machinery, equipment and appliances;
 - VI. Second-hand materials including building materials;

- VII. Demolition materials;
- VIII. Scrap materials;
- IX. Sand, soil rock, blue metal and any other material derived from any construction or dredging process;
- X. Any organic or vegetative material;
- XI. Any industrial or commercial waste product;
- XII. Any household fixtures, rubbish or waste;
- XIII. Second-hand containers, bottles, scrap metal, waste paper, rags, or rubbish;
- XIV. Any recycled or composted material.

Criteria Does Not Include:

This criteria does not include the placing of articles on a public place during a designated period of a Council clean up provided these articles do not breach conditions (a) and (b) above.

Order No. 28 – Public place, prevent or repair damage

To Do What?

To take whatever steps are necessary to prevent damage to a public place and repair damage to a public place

In What Circumstances?

There is actual or likely damage:

- a) by excavation or removal of material from or adjacent to the public place; or
- b) by a work or structure; or
- c) by surface drainage or irrigation.

To Whom?

- a) Person responsible for the excavation or the removal of the material
- b) Owner or person entitled to the benefit of the work or structure
- c) Owner or occupier of land from which the surface drainage flows or from which spray emanates

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) Whether the activity is associated with any approval issued by Council.
- b) If the activity is related to an approval issued by Council, whether the conditions of the approval are being complied with.

Order No. 29 – Public place, alter or repair work or structure

To Do What?

To alter or repair a work or structure on, over or under a public place

In What Circumstances?

It is in the public interest to do so

To Whom?

Owner of the work or structure

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) To alter or repair structures on, over, or under the public way not in accordance with approvals or considered unsafe or dangerous;
- b) Repairs required to private services within a public place such as, but not limited to, sewer services and roof water/storm water pipes not covered by lease agreements;
- c) Driveway crossings which are not being maintained in a safe condition;
- d) Shop awnings which are not being maintained in a safe or slightly condition; and
- e) Maintenance of underground pipes within a public place.

Order No.30 – Comply with an approval

To Do What?

To comply with an approval

In What Circumstances?

The approval is not being complied with

To Whom?

Person entitled to act on the approval or person acting otherwise than in compliance with the approval

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) An approval granted by Council has not been complied with; or
- b) Conditions of an approval granted by Council have not been complied with.

Order under Section 125 of the Local Government Act 1993

To Do What?

To abate a public nuisance or order a person responsible for a public nuisance to abate it

In What Circumstances?

Where a nuisance consists of interference with the enjoyment of public rights. A nuisance is “public” if it materially affects the reasonable comfort and convenience of sufficient people to constitute the public or a section of the public.

To Whom?

The person(s) responsible for causing a public nuisance

Criteria

When determining whether a Notice of Proposed Order or Order is to be given, the following criteria are to be taken into consideration:

- a) The source of the nuisance need not be located on, or in, a public place.
- b) The impact of the nuisance must affect the general public and not a localised group.

Example 1 - Lighting from a private premises impacting upon motor vehicle drivers on a public road.

Example 2 - Any wrongful or negligent act or omission in a public road that interferes with the full, safe and convenient use by the public of their right of passage is a public nuisance.

1 What must Council consider before giving an order?

Council must ensure that:

- the type and circumstances of the order and the person on whom the order will be served are described in the Table to Section 124 of the Act; or
- the activity constitutes a public nuisance under Section 125 of the Act; and
- the relevant provisions of the Act, Regulations, Local Approvals Policy and any additional criteria adopted in a Local Orders Policy have been considered (LG Act s131).

2 What must be done before an order is served?

Council must issue a notice of intention to serve the order which provides the following information (Section 132):

- the name of the person for whom the order is intended;
- the terms of the proposed order;
- how long the person will have to comply with the proposed order;
- an opportunity for the person to make representations to Council to explain why a proposed order should not be given or that the terms of, or period for compliance, are unreasonable;
- how, when and to whom representations can be made (LG Act s132 (3)); and
- the right to appeal to the Land and Environment Court and time period within which an appeal may be made (LG Act s138).

3 Who can make representations?

The person on whom the proposed order is to be served (or their barrister, solicitor or agent) can make representations (LG Act s133).

4 How should representations be made and considered?

Representations can be made in writing to the General Manager. Council must hear and consider any representations made regarding proposed orders (LG Act s134). Consideration must be given to the special circumstances of any residents if order No 15A is proposed to be served.

5 What does Council do after hearing representations?

The Council can proceed with the proposed order, make modifications to the order or not give the order (LG Act s135 (1)).

If modifications are made to the order as a result of the representations a further notice of intention is **not** required (LG Act s135 (2)).

6 Are there any exemptions to these procedures?

The procedures normally observed before giving orders do not apply to orders given, and expressed to be given, in an emergency and in the case of Order No 15 when the cessation of an activity is ordered because it constitutes a life threatening hazard, a threat to public health or public safety and is not regulated under any other Act or by a public authority (LG Act s129 (2)).

7 What information should the order contain?

The order should contain:

- Reasons for the order (LG Act s136 (1)) except in urgent cases when reasons must be given the next working day (LG Act s36 (3)).
- The period in which the terms of the order are to be complied with (LG Act s137 (1)).
- Notice of the right to appeal against the order or part of the order (LG Act s138 (a)).
- The time period within which an appeal can be made (s138 (b) *including both periods where it is a "particulars of work" order*).
- Any relevant provisions of the Act, Regulations and Local Approvals Policy and Local Orders Policy not complied with (Local Government (General) Regulation 2005 cl 99(a)).
- Notice that it is an offence not to comply with an order and the maximum penalty (Local Government (General) Regulation 2005 cl. 99(b)).
- Notice that if the order is not complied with Council can undertake the work and recover costs (Local Government (General) Regulation 2005 cl. 99(c)).

In addition an order may specify the standard a premises is to meet, the nature of work that would meet the specified standard and the time period (not exceeding 3 months) *within which particulars of work must be submitted* (LG Act s139).

8 How long does Council have to consider whether the proposed works meet the standards specified in an order?

Council has 28 days in which to consider the proposed works and can:

- (1) accept the proposed works without modification and order the completion of the works immediately;
- (2) accept the proposed works with modifications;
- (3) reject the proposed works.

If Council is still not satisfied with the proposed works, then it must within 3 months prepare a schedule of works and order the person to carry out those works (LG Act s141 (3)). An order under section 141 forms part of the order under section 124 to which it relates.

9 Can Council recover any expenses involved in this process?

Yes, Council can recover any expenses in preparing particulars of work to be completed (LG Act s141 (5)).

10 How do orders affect heritage items?

Council must first consider the impact of the order on the heritage item and must notify the Heritage Council of its intention to serve an order if the item is listed in the Register of the National Estate or included as an order under the Heritage Act 1977 (s142 (1) (2) (3)).

11 How is an order given and when does it take effect?

A copy of the order can be served by a Council officer or posted to the person to whom the order is addressed (LG Act s144). It takes effect from the time it is served or a later time if specified in the order (LG Act s144).

12 Does Council have the power to give an order under another act?

Council is able to give orders under other Acts, provided that an authority has been given. For example, Council may serve an order under the Environmental Planning and Assessment Act 1979, the Companion Animals Act 1998, Protection of the Environment Operations Act 1997 and the Food Act 2003. The relevant provisions of the respective acts will apply in such circumstances.

13 What happens when a person fails to comply with an order?

The person is guilty of an offence under the Act for failure to comply with an order (LG Act s628). The maximum penalties that apply to particular orders are as follows:

- a) Orders Nos 1, 3,5 and 7 to 12 - 50 penalty units for an individual and 100 penalty units for a corporation
- b) Orders Nos 15,16 and 17 - 100 penalty units for an individual and 200 penalty units for a corporation
- c) Orders Nos 18 to 25 and 27 to 29 – 20 penalty units.
- d) Order No 30 - The same penalty as the penalty imposed for carrying out the activity the subject of the approval otherwise than in accordance with the approval.
- e) Order under Section 125 – 20 penalty units.

14 Is an approval necessary for work to be undertaken?

No, a person who carries out work in compliance with an order does not have to make an application for approval of the work (LG Act s138A).

15 Must an occupier of land permit an owner to carry out work?

Yes, the occupier must within 2 days of the order being served allow the owner to do the work (LG Act s148 (1) (2)). However, if the occupier does not permit the owner to do work, the owner is not considered guilty of an offence for failure to comply (LG Act s148 (3)).

16 Can Council carry out the works?

Yes, if a person does not comply with the terms of an order then Council can carry out the works and recover the costs (LG Act s141 (5) and s678).

17 What rights of appeal does a person have against an order or part of an order?

A person may appeal to the Land and Environment Court within 28 days of the order being served (LG Act s180 and Land and Environment Court Rules 1980 s17).

18 Does the appeal prevent the order from operating?

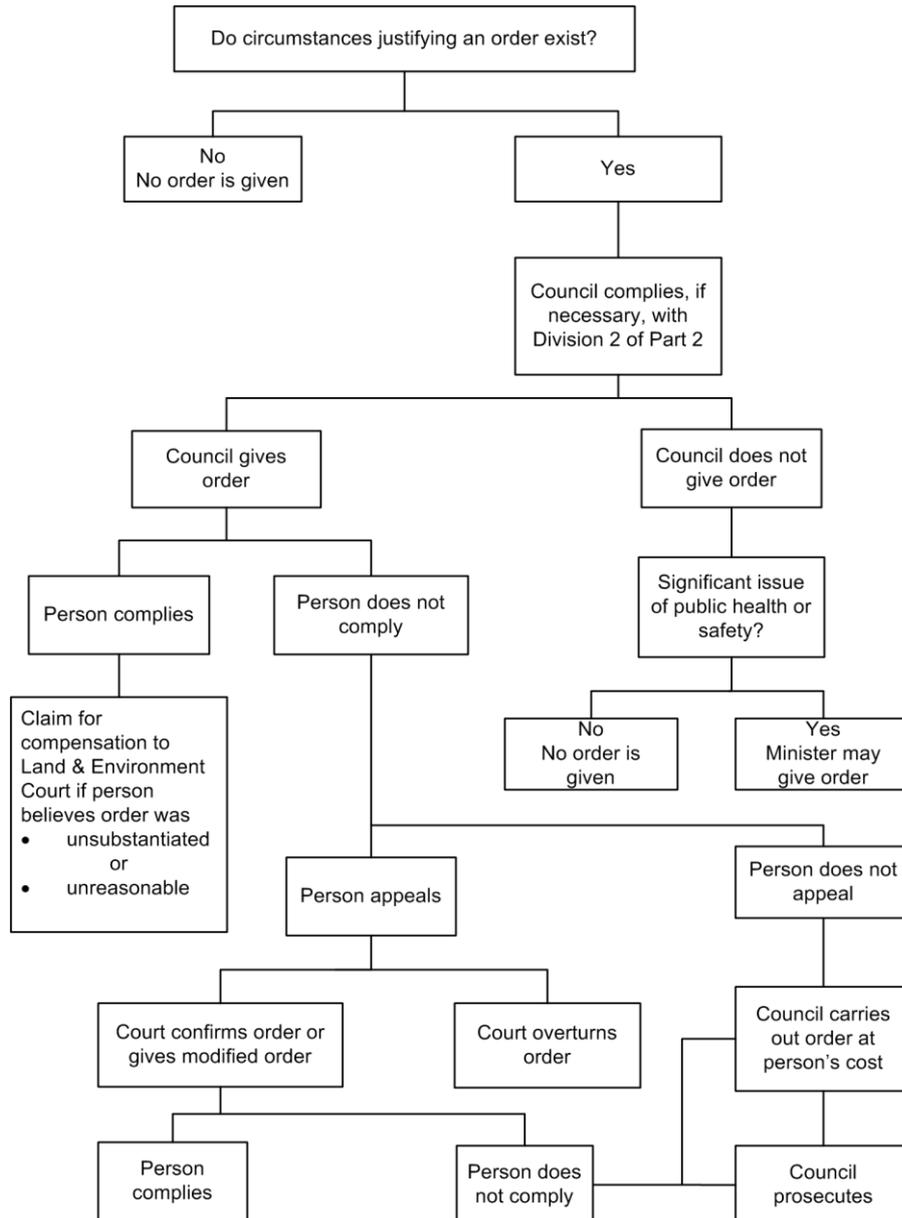
No, the order operates while the appeal is being heard in the Land and Environment Court.

19 Is a building owner entitled to any compensation from Council for expenses involved in complying with an order?

The only time a building owner is entitled to compensation is if Council orders the demolition of a building (Order No 1) or repair or make structural alterations to a building (Order No 3) that is located in a proclaimed catchment district which causes or is likely to cause the pollution of a water supply (LG Act s128).

20 Overview of legal process to issue an order

The diagram below provides an overview of the process followed when a Council is considering issuing an order.



21 Dictionary

The dictionary below represents a partial extract from the dictionary of the Local Government Act 1993 and should be read in conjunction with this Local Orders Policy.

act means the Local Government Act 1993.

Council means the Council of an area, and includes an administrator.

dwelling, in Division 1 of Part 8 of Chapter 15, means a building or part of a building used as a place of dwelling.

human waste means human faeces and urine.

human waste storage facility means a device for holding or disposing of human waste, including a cesspit, septic tank, septic closet, water closet, chemical closet, humus closet and combustion closet.

public road means a road which the public are entitled to use.

road includes:

- a) highway, street, lane, pathway, footpath, cycleway, thoroughfare, bridge, culvert, causeway, road-ferry, ford, crossing, by-pass and track way, whether temporary or permanent, and
- b) any part of a road and any part of anything referred to in paragraph (a), and
- c) anything forming part of a road or anything forming part of anything referred to in paragraph (a).

sewerage work means the construction, alteration, extension, disconnection, removal, ventilation, flushing, cleansing, maintenance, repair, renewal or clearing of any sewerage service pipes or fittings or fixtures communicating or intended to communicate, directly or indirectly, with:

- a) a septic tank, an effluent or a sullage disposal system, or
- b) any sewer of a Council,

and includes work of sanitary plumbing and work of house drainage.

waste means:

- a) effluent, being any matter or thing, whether solid or liquid or a combination of solids and liquids, which is of a kind that may be removed from a human waste storage facility, sullage pit or grease trap, or from any holding tank or other container forming part of or used in connection with a human waste storage facility, sullage pit or grease trap, or
- b) trade waste, being any matter or thing, whether solid, gaseous or liquid or a combination of solids, gases and liquids (or any of them), which is of a kind that comprises refuse from any industrial, chemical, trade or business process or operation, including any building or demolition work, or
- c) garbage, being all refuse other than trade waste and effluent,

and includes any other substance defined as waste for the purposes of the Protection of the Environment Operations Act 1997, and a substance is not precluded from being waste merely because it is capable of being refined or recycled.

water supply work means the construction, alteration, extension, disconnection, removal, flushing, cleansing, maintenance, repair, renewal or clearing of any pipes or fittings of any water service communicating or intended to communicate, directly or indirectly, with any water main of a Council, but does not include changing a washer.

Appendix 1

Keeping of Birds and/or Animals

When determining whether a Notice of Proposed Order or Order is to be given, the following general criteria are to be taken into consideration:

Neighbourly living criteria:

There are impacts on the health and safety of the local neighbourhood, such as:

- The animal/s are habitually at large.
- The animal/s have attacked/chased a person or animal; or displayed unreasonable aggression.
- The attraction and/or presence of fleas, ticks, vermin, etc.
- Whether unsanitary or unhealthy conditions have been created such as the accumulation of faeces, stale food, old bones, etc.
- There is a foul odour, dust or drainage nuisance.
- Persistent animal noise that continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of the neighbourhood.
- The animal is located too close to a habitable building.
- Water has been allowed to stagnate and mosquitos are breeding.
- The mix and number of animals within a property is inappropriate to the location.

Environmental conditions criteria:

There is evidence of impact on the natural environment such as:

- Detrimental effects to protected and environmentally sensitive areas.
- Soil erosion and/or land degradation that interferes with an ecosystem.
- Run-off associated with natural water flow from animal enclosures and/or cleaning of these areas discharging into neighbouring properties or waterways.
- Predation on local fauna.

There are no restrictions on the number of birds and animals that can be kept in the Shire in normal circumstances. Limits and standards may be applied when:

- A legitimate problem has been identified relating to the numbers and/or types of birds or animals kept upon a particular premise.
- There is a detrimental impact on the health, amenity and safety of others.
- Voluntary rectification of the problem does not occur; hence an order is required under the provisions of Section 124 of the Local Government Act 1993 to address the problems that have arisen.

Also see Part 5 of Schedule 2, "Standards for Keeping Birds and Animals", under the Local Government (General) Regulation 2005.

Council's regulatory powers do not extend to entering private property to seize an animal that may have been the subject of neglect or cruelty. In any such case, the RSPCA is the appropriate authority.

This part does not apply to *animal establishments* (which require development consent).

The following additional criteria have been developed for the benefit of all stakeholders including the Council, the pet owner/s, the immediate neighbours and the broader community to provide some guidance in the way respective animals should be kept on premises within the local government area. It should NOT be interpreted that the keeping of animals in excess of the numbers specified is prohibited but rather an indication of one of the listed criteria which will be used to determine whether an order should be issued.

Structures including fences used to accommodate and/or enclose any animal or bird may require approval. Refer to the NSW SEPP (Exempt and Complying Development Codes) 2008 to determine whether development consent or a complying development certificate is required. Structures and containment areas must also not be located in onsite effluent areas.

Keeping of Birds and/or Animals Specific Assessment Criteria

Alpacas/Llamas

Recommended number:	<ul style="list-style-type: none"> A stocking rate of 1 per hectare (minimum of 1 hectare is required)
Recommended requirements:	<ul style="list-style-type: none"> Keep animals a minimum of 9 metres from any dwelling, school, shop, office, factory, workshop, church or other place of public worship, public hall or premises used for the manufacture, preparation or storage of food. Locate enclosures at least 20 metres from any dwelling or place where food is kept, processed or stored, or 6 metres from any roadway or 1 metre from any property boundary. Enclose yard areas to prevent escape. Keep feed that is packaged or otherwise requires storage in a manner that prevents access by vermin.
Advice	<ul style="list-style-type: none"> Alpacas have specific fencing requirements to prevent escape. Development consent may be required for enclosures/fences

Bees

The NSW Department of Primary Industries is the regulatory authority under the Apiaries Act 1985 (NSW). For further information on the keeping of bees and/or to report nuisance bees refer to the www.dpi.nsw.gov.au

Competition by the feral honey bee, *Apis mellifera* is listed as a key threatening process under Schedule 3 of the Threatened Species Conservation Act 1995.

Birds

There are a variety of definitions for "birds". This is especially so for fowls and poultry. To aid interpretation, all birds are grouped into caged bird, fowls, peafowls, pigeons and poultry. Examples of each type are given (in brackets).

Birds - Caged Birds (includes lorikeets, cockatoos, corellas and the like)

Recommended number:	<ul style="list-style-type: none"> Appropriate numbers for the size of the cage and type of birds
Recommended requirements:	<ul style="list-style-type: none"> Locate the aviary within the rear yard area of the premise, at least 4.5 metres from any dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food and at least 1 metre from any property boundary. Place barriers around cages to prevent the entry of predators, vermin and other pests.

	<ul style="list-style-type: none"> • On suspended cages include trays for the collection of bird waste. • Control lice and pests including wild rodents. • Clean aviaries regularly. • Store feed in secure containers to prevent access by vermin.
Advice	<ul style="list-style-type: none"> • Check with NSW National Parks & Wildlife Service for licence requirements on keeping of native birds. • Refer to the Non-Indigenous Animals Act 1987, for licence requirements on the keeping of non-indigenous species. • Noise made by some bird species should be considered when making selections for the aviary. The combination of species may also impact on noise (eg Lorikeets, Cockatoos and Corellas have been the subject of noise complaints at other Councils). Advice from birdkeeper associations can assist you in the selection of species appropriate to the locality.

Birds - Fowls (birds of the species Gallus Gallus such as domestic chickens, guinea fowls and red jungle fowl)

Recommended number:	<ul style="list-style-type: none"> • No more than 10 adult birds per property. • The keeping of roosters in urban areas, villages and residential areas is prohibited.
Recommended requirements:	<ul style="list-style-type: none"> • Locate roosts and fowl enclosures within the rear yard area of the premise, at least 4.5 metres from any dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food and at least 1 metre from any property boundary. • Place barriers around cages to prevent the entry of predators, vermin and other pests. • Keep fowls in the rear yard of the property. • Enclose yard areas in a manner that will exclude predators. • Keep roosts and fowl houses in a clean state so as not to attract vermin. • Store feed in secure containers to prevent access by vermin.
Advice	<ul style="list-style-type: none"> • Refer to the Local Government (General) Regulation 2005, Schedule 2, Part 5 - Standards for Keeping Birds or Animals. • Fowls can attract foxes, stray dogs and domestic/feral cats. Inadequate fencing and management can impact on the diversity of wildlife species in the Nambucca Shire.

Birds - Peafowls (peacocks, peahens)

Recommended number:	<ul style="list-style-type: none"> • A stocking rate of 1 per 5 hectares (a minimum of 5 hectares is required). • The keeping of peacocks and peahens in urban areas, villages and residential areas is prohibited.
Recommended requirements:	<ul style="list-style-type: none"> • Locate roosts and fowl enclosures within the rear yard area of the premise, at least 9 metres from any dwelling on an adjoining property and at least 1 metre from any property boundary. • Enclose coops and construct in a manner that will exclude predators. • Keep peafowls within the yard area of the property. • Keep enclosures and coops clean at all times. Regularly remove and appropriately dispose of manure. • Store feed in secure containers to prevent access by vermin.
Advice	<ul style="list-style-type: none"> • Nil.

Birds - Pigeons (pigeons, doves)

Recommended number:	<ul style="list-style-type: none"> • Maximum of 20 adult birds
Recommended requirements:	<ul style="list-style-type: none"> • Locate coops and roosts in the rear yard of the premise, at least 9 metres from any dwelling on an adjoining property and at least 1 metre from any property boundary. • Enclose coops and construct in a manner that will exclude predators. • Keep roosts and coops clean at all times. Regularly remove and appropriately dispose of manure. • Store feed in secure containers to prevent access by vermin. • Restrict flight times to 2 hours after sunrise and 2 hours before sunset. Allow exercise runs of no more than 1 hour.
Advice	<ul style="list-style-type: none"> • Pigeons can negatively impact on both the environment and indigenous birds. Food sources and roosting opportunities must not be made available to wild pigeons. • Wild pigeon numbers can be managed by discouraging uncontrolled feeding and bird-proofing known roost sites

Birds - Poultry (duck, geese, turkey, swan, quail and pheasant)

Recommended number:	<ul style="list-style-type: none"> No more than 5 adult birds per property (R1 – R5 and RU5 zones)
Recommended requirements:	<ul style="list-style-type: none"> Locate poultry houses in the rear yard of the premise, at least 30 metres from any dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food. Construct enclosures in a manner that will prevent escape and exclude predators. Keep roosts and poultry houses clean at all times. Regularly remove and appropriately dispose of manure. Store feed in secure containers to prevent access by vermin. Keep poultry in the rear yard of the property.
Advice	<ul style="list-style-type: none"> Refer to the keeping of poultry provisions in the Local Government (General) Regulation 2005, Schedule 2, Part 5 - Standards for Keeping Birds or Animals. The Schedule also outlines standards for the paving of floors in poultry houses. Refer also to management practices for Agriculture - Livestock on the NSW Department of Primary Industries website www.dpi.nsw.gov.au Poultry can attract foxes, stray dogs and domestic/feral cats. Inadequate fencing and management can impact on the diversity of wildlife species.

Cats

Recommended number:	<ul style="list-style-type: none"> No more than 4 adult desexed cats or 2 adult non-desexed cats per property (and kittens to 6 months). NB: Where a property has cats and dogs, the total number of cats and dogs combined should be four or fewer.
Recommended requirements:	<ul style="list-style-type: none"> Provide litter trays with a sufficient depth of suitable litter material, eg commercial cat litter, shavings or shredded paper. (Note: sawdust is not recommended as it can irritate eyes). Clean and disinfect litter trays regularly. Remove faeces daily, change/replenished litter as required. Do not recycle litter. Store feed in secure containers to prevent access by vermin. Cats should be kept indoors, particularly at night, with access to outdoor cat enclosures/runs and shelter.

	<ul style="list-style-type: none"> • Keep cat enclosures/runs and shelters within the rear yard area of the premise. • Pet foods should not be left outside. They can be a source of nourishment for foxes and other animals. • Control pests including fleas, ticks, flies, lice and wild rodents.
Advice	<ul style="list-style-type: none"> • Microchipping and registration is a two part process. Requirements for cat owners are: — A) Microchip animals by 12 weeks of age, at point of sale or change of ownership (whichever occurs first). B) Register animals with the Council by 6 months of age. • Cats settled with owners up to 1st July 1999, are exempt from lifetime registration. They must however be identified by either a microchip or a collar with a tag attached showing the cat's name and owner's address or phone number. • Under the Companion Animals Act, Council does not have regulatory powers to restrict roaming cats except in prohibited places such as food preparation/consumption areas and designated wildlife protection areas, unless clear evidence is available that shows the cat is causing a nuisance to neighbours and wildlife. • Predation by feral cats <i>Felis catus</i> is listed as a key threatening process under the Threatened Species Conservation Act 1995, owners must make every effort to prevent their cat/s from straying. • Cats can be trained to live indoors refer to the www.rspcansw.org.
Note:	<ul style="list-style-type: none"> • Please ensure that address details for microchipped and registered cats are kept current. Refer to the NSW Companion Animals Register 'Change of address notice' on www.olg.nsw.gov.au • The breeding of cats for commercial purposes is not permitted without obtaining a consent via the development application process

Cattle (bull, cow, ox, heifer, steer, calf and buffalo)

Recommended number:	<ul style="list-style-type: none"> • A stocking rate of 1 per 0.5 hectares (a minimum of 5 hectares is recommended).
Recommended requirements:	<ul style="list-style-type: none"> • Keep animals a minimum of 9 metres from a dwelling, school, shop, office, factory, workshop, church or other place of public

	<p>worship, public hall or premises used for the manufacture, preparation or storage of food.</p> <ul style="list-style-type: none"> • Locate enclosures at least 20 metres from a dwelling or place where food is kept, processed or stored, or 6 metres from any roadway or 1 metre from any property boundary. • Enclose cattle yards to prevent escape. • Keep feed that is packaged or otherwise requires storage in a manner that prevents access by vermin.
Advice	<ul style="list-style-type: none"> • Refer to the keeping of horses and cattle provisions in the Local Government (General) Regulation 2005, Schedule 2, Part 5 - Standards for Keeping Birds or Animals. • Refer also to management practices for Agriculture - Livestock on the NSW Department of Primary Industries website www.dpi.nsw.gov.au • The keeping of hoofed animals above the recommended number may require development consent. Refer to Nambucca LEP 2010 for details.

Deer (stag, hart, buck, bull, hind, doe, cow, calf and fawn)

Recommended number:	<ul style="list-style-type: none"> • A stocking rate of 1 per 0.5 hectares (a minimum of 10 hectares is recommended) for these animals
Recommended requirements:	<ul style="list-style-type: none"> • Keep animals a minimum of 9 metres from a dwelling, school, shop, office, factory, workshop, church or other place of public worship, public hall or premises used for the manufacture, preparation or storage of food. • Locate enclosures at least 20 metres from a dwelling or place where food is kept, processed or stored, or 6 metres from any roadway or 1 metre from any property boundary. • Enclose yards to prevent escape. • Keep feed that is packaged or otherwise requires storage in a manner that prevents access by vermin.

Advice	<ul style="list-style-type: none"> • Refer to the requirements of the Deer Act 2006. • The keeping of hoofed animals above the recommended number may require development consent. Refer to Nambucca LEP 2010 for details. • Deer have specific fencing requirements to prevent escape. Development consent may be required for these enclosures/fences. • Environmental degradation caused by feral deer is listed as a key threatening process under the Threatened Species Conservation Act 1995; owners must contain animals on site.
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Dogs

Recommended number:	<ul style="list-style-type: none"> • Up to 4 adult desexed dogs or 2 adult non-desexed dogs per premise (& pups to 6 mths). NB: Where a property has cats and dogs, the total number of cats and dogs combined should be four or fewer.
Recommended requirements:	<ul style="list-style-type: none"> • Contain dogs within the rear yard area of the premise. • Change bedding frequently, kept clean, dry and free of parasites. • The size of the kennel should be based on the body size / bedding requirements of the dog and be accessible for easy cleaning. • Keep housing and exercise areas clean with the regular removal and proper disposal of animal faeces. • Pet foods should not be left outside. They can be a source of nourishment for foxes and other animals. • Control pests including fleas, ticks, flies, lice and wild rodents.
Advice	<ul style="list-style-type: none"> • Microchipping and registration is a two part process. Requirements for dog owners are: — A) Microchip animals by 12 weeks of age, at point of sale or change of ownership (whichever occurs first). B) Register animals with the Council by 6 months of age. • When in public, dogs must wear a collar with a tag attached showing the dog's name and owner's address or phone number. • Dogs are not permitted to roam or cause nuisance to neighbours. • Enclosures for Dangerous Dogs and Restricted Breeds must comply with the

	<p>Companion Animals Act & Regulation.</p> <ul style="list-style-type: none"> The Council has a number of dog off-leash areas across the Shire. Refer to www.nambucca.nsw.gov.au for full details on locations and times of use.
Note:	<ul style="list-style-type: none"> The Companion Animals Act also provides for the seizure of a dog in certain circumstances. In these situations, the dog is impounded for the statutory period (microchipped animals are held for a minimum of 14 days and unidentified animals for 7 days). In accordance with the legislation, every effort is made to notify the owner of the dog's seizure or impounding. It is however the owner's responsibility to ensure that address details are kept current. The breeding of dogs for commercial purposes is not permitted without obtaining consent via the development application process. Refer to the NSW Companion Animals Register 'Change of address notice' on www.olg.nsw.gov.au

Ferrets

Recommended number:	<ul style="list-style-type: none"> No more than 4 adult ferrets per property
Recommended requirements:	<ul style="list-style-type: none"> Locate the hutch in the rear yard, at least 9 metres from any dwelling and 1 metre from any property boundary. Ferrets should be contained within the rear yard area of the premise. Feed must be stored in secure containers to prevent access by vermin.
Advice	<ul style="list-style-type: none"> Female ferrets (Jills) should be desexed before reaching sexual maturity (approximately 6 months of age), or they may die if not mated.

Fish

Recommended number:	<ul style="list-style-type: none"> Appropriate numbers for the size of the pond and type of fish.
Recommended requirements:	<ul style="list-style-type: none"> Ponds must be located well clear of drainage easements or flow lines to prevent spread (ie fish and eggs) to creeks during heavy rains. Water is to be kept clean and not allowed to stagnate and breed mosquitoes.
Advice	<ul style="list-style-type: none"> Refer to the provisions of exempt and complying development on size of pond before development consent is required.

	<ul style="list-style-type: none"> • Do not release water or water plants into the environment. • Pumps are not to cause a noise nuisance to neighbours. • Any ponds having a depth in excess of 300mm should be covered with wire mesh to prevent access by children.
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Goats (buck, doe, wether and kid)

Recommended number:	<ul style="list-style-type: none"> • A stocking rate of 1 per 5 hectares (a minimum of 5 hectares is recommended).
Recommended requirements:	<ul style="list-style-type: none"> • Keep animals a minimum of 9 metres from a dwelling, school, shop, office, factory, workshop, church or other place of public worship, public hall or premises used for the manufacture, preparation or storage of food. • Locate enclosures at least 20 metres from a dwelling or place where food is kept, processed or stored, or 6 metres from any roadway or 1 metre from any property boundary. • Enclose yards to prevent escape. • Store feed in a manner that prevents access by vermin.
Advice	<ul style="list-style-type: none"> • The keeping of hoofed animals above the recommended number may require development consent. Refer to Nambucca LEP 2010 for details. • Refer also to management practices for Agriculture - Livestock on the NSW Department of Primary Industries website www.dpi.nsw.gov.au • Competition and habitat degradation by Feral Goats, <i>Capra hircus</i> is listed as a key threatening process under Schedule 3 of the Threatened Species Conservation Act 1995; owners must ensure goats are contained on the site.

Guinea Pigs

Recommended number:	<ul style="list-style-type: none"> • Adult stocking rate of 1 per 0.5 square metre of hutch.
Recommended requirements:	<ul style="list-style-type: none"> • The hutch must be located at the rear of the property, at least 4.5 metres from any dwelling and 1 metre from any property boundary. • Guinea pigs must be contained within the rear yard area of the premise.

	<ul style="list-style-type: none"> • Feed must be stored in secure containers to prevent access by vermin. • Hutches must be kept in a clean state so as not to attract vermin and constructed in a manner that will exclude predators.
Advice	<ul style="list-style-type: none"> • It is recommended that males be separated from each other to prevent animals fighting and creating a noise nuisance. • Guinea pigs breed from 3 months of age.

Horses (mare, stallion, gelding, colt, filly, foal, hinny, mule, donkey and ass)

Recommended number:	<ul style="list-style-type: none"> • A stocking rate of 1 per 2.5 hectares (a minimum of 5 hectares is recommended).
Recommended requirements:	<ul style="list-style-type: none"> • Keep animals a minimum of 9 metres from a dwelling, school, shop, office, factory, workshop, church or other place of public worship, public hall or premises used for the manufacture, preparation or storage of food. • Locate enclosures at least 20 metres from a dwelling or place where food is kept, processed or stored, or 6 metres from any roadway or 1 metre from any property boundary. • Enclose yards to prevent escape. • Keep feed in a manner that prevents access by vermin.
Advice	<ul style="list-style-type: none"> • The keeping of hoofed animals above the recommended number may require development consent. Refer to Nambucca LEP 2010 for details. • Refer also to management practices for Agriculture - Livestock on the NSW Department of Primary Industries website www.dpi.nsw.gov.au • Refer to the keeping of horses and cattle provisions in the Local Government (General) Regulation 2005, Schedule 2, Part 5 - Standards for Keeping Birds or Animals. The Schedule also outlines standards for stable floors.

Pigs/swine (boar, sow, barrow, piglet and sucker)

Recommended number:	<ul style="list-style-type: none"> • Prohibited in R1 – R4 and RU5 zones. Maximum of 1 per premise in R5 zones.
Recommended requirements:	<ul style="list-style-type: none"> • Swine must not be kept in such a place or manner as to pollute any waterway or water supplied for use (or used, or likely to be used) by a person for drinking or domestic purposes, or in a dairy.

	<ul style="list-style-type: none"> • Swine's dung must not be deposited in such a place or manner as to pollute any water supplied for use (or used, or likely to be used) by a person for drinking or domestic purposes, or in a dairy. • Swine must not be kept (and swine's dung must not be deposited) within 60 metres of a dwelling, shop, office, factory, church or other place of public worship, workshop, school or public place in a city, town, village or other urban part of an area. • Yards must be so enclosed as to prevent the escape of animals. • Feed that is packaged or otherwise requires storage should be kept in a manner that prevents access by vermin.
Advice	<ul style="list-style-type: none"> • The keeping of hoofed animals above the recommended number may require development consent. Refer to Nambucca LEP 2010 for details. • Refer also to management practices for Agriculture - Livestock on the NSW Department of Primary Industries website www.dpi.nsw.gov.au • Refer to the keeping of swine provisions in the Local Government (General) Regulation 2005, Schedule 2, Part 5 - Standards for Keeping Birds or Animals. • Predation, habitat degradation, competition and disease transmission by Feral Pigs <i>Sus scrofa</i> is listed as a key threatening process under the Threatened Species Conservation Act 1

Rabbits

Recommended number:	<ul style="list-style-type: none"> • Maximum of two (must be the same gender)
Recommended requirements:	<ul style="list-style-type: none"> • The hutch must be located at the rear of the property, at least 4.5 metres from any dwelling and 1 metre from any property boundary. • Rabbits must be contained within the rear yard area of the premise. • Feed must be stored in secure containers to prevent access by vermin. • Hutches must be kept in a clean state so as not to attract vermin and constructed in a manner that will exclude predators. • Must be a recognised domestic breed.

Advice	<ul style="list-style-type: none"> • Rabbits should be desexed before 5 months of age. • Do not release rabbits into the environment. • Refer also to management practices for Agriculture - Livestock on the NSW Department of Primary Industries website www.dpi.nsw.gov.au • Competition and grazing by the Feral European Rabbit <i>Oryctolagus cuniculus</i> is listed as a key threatening process under the Threatened Species Conservation Act 1995.
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Reptiles

Recommended number:	<ul style="list-style-type: none"> • Maximum number as appropriate to the circumstances.
Recommended requirements:	<ul style="list-style-type: none"> • Must be adequately housed to prevent escape.
Advice	<ul style="list-style-type: none"> • All lizards, snakes and turtles require a licence from NSW National Parks & Wildlife. • Refer to the Non-Indigenous Animals Act 1987, for licence requirements on keeping of non-indigenous species.

Rodents (rats and mice)

Recommended number:	<ul style="list-style-type: none"> • Adult stocking rate of 1 per 0.5 m² of hutch.
Recommended requirements:	<ul style="list-style-type: none"> • If outside, the hutch must be located at the rear of the property, at least 4.5 metres from any dwelling and 1 metre from any property boundary. • If outside, rodents must be contained within the rear yard area of the premise. • Feed must be stored in secure containers to prevent access by vermin. • Hutches must be kept in a clean state so as not to attract vermin and constructed in a manner that will exclude predators.
Advice	<ul style="list-style-type: none"> • Do not release rodents into the environment.

Sheep (ewe, ram, wether, hogget and lamb)

Recommended number:	<ul style="list-style-type: none"> • A stocking rate of 1 per 5 hectares (a minimum of 5 hectares is recommended).
Recommended requirements:	<ul style="list-style-type: none"> • Keep animals a minimum of 9 metres from a dwelling, school, shop, office, factory, workshop, church or other place of public worship, public hall or premises used for the manufacture, preparation or storage of food.

	<ul style="list-style-type: none"> • Locate enclosures at least 20 metres from a dwelling or place where food is kept, processed or stored, or 6 metres from any roadway or 1 metre from any property boundary. • Enclose yards to prevent escape. • Keep feed that is packaged or otherwise requires storage in a manner that prevents access by vermin.
Advice	<ul style="list-style-type: none"> • The keeping of hoofed animals above the recommended number may require development consent. Refer to Nambucca LEP 2010 for details. • Refer also to management practices for Agriculture - Livestock on the NSW Department of Primary Industries website www.dpi.nsw.gov.au

Enforcement Processes under the Local Government Act 1993

Enforcement action may involve the service of a written notice of intention to serve an order under section 124 of the Local Government Act, the purpose of which is to give the owner of the animal/s an opportunity to make a written submission as to why a formal order should not be served.

The notice of intention generally gives owners 28 days to respond and/or take corrective action.

If the matter is not resolved within this timeframe an order is issued. Examples of the content of a proposed order may include the need for rectification work to be carried out or changes made in the way the animal/s are kept, or a restriction on the numbers to be kept in the particular situation. The time frame given in the order will be appropriate to the type of works and take into account whether development consent is required.

Orders usually have a minimum compliance period of 28 days. Emergency orders can however be issued directly where Council can justify the issue is a matter of urgency.

Orders can be modified or revoked. Modified orders generally apply to a negotiated outcome where the time frame is extended or representations are made to change the terms of the order. An order is revoked where the requirements outlined in the order have been met. Where non-compliance is detected Council will give effect to the order by taking further action. Residents should also be aware that Council may issue an order requiring demolition works for where a structure is dilapidated or structurally inadequate.

Any order served by the Council may be appealed within 28 days to the Land and Environment Court.

For further information on Council's Enforcement procedures, please refer to Council's Compliance, Enforcement and Prosecution Policy No: DE 09.