



GLEN INNES SEVERN COUNCIL Local Orders Policy

RESOLUTION NUMBER:	30.02/17 14.10/12 17.05/10	MEETING:	23 February 2017 25 October 2012 20 May 2010
---------------------------	----------------------------------	-----------------	--

Part 1 Preliminary

Name and Application of Policy

This is the Glen Innes Severn Council Local Orders Policy and applies to the whole of the Glen Innes Severn Council **Local Government Area (LGA)**.

Purpose

The purpose of this policy is to provide the public and Council officers with the criteria that Council must consider when determining whether to give a particular order under Sections 124 and 125 of the **Local Government Act 1993 (LG Act)**.

Aims of the Policy

The policy aims:

- a) to ensure consistency and fairness in the manner in which the Council deals with issuing orders;
- b) to make the Council's policies and requirements for orders readily accessible and understandable to the public;
- c) to establish a system which can effectively resolve disputes and conflicts as they arise; and
- d) to provide guidance to Council officers in the performance of their duties relating to the issuing of orders.

Amendment of the Policy

This policy may be amended by Council. Amendments will be listed in a table and attached as an appendix to the policy.

Revocation of the Policy

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

Implementation / Communication

Following adoption of the Policy, the Director of Development Planning and Regulatory Services will inform Regulatory staff members about the Policy, ensure that a notice is placed in Council's column in the Glen Innes Examiner advising of its adoption, and ensure that a copy of the Policy is uploaded to Council's website.

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

Part 2 Criteria

Local Government Act 1993 Section 124

(Please note Orders and numbering taken from the Act)

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

Order No.1

To do what?	In what circumstances?	To whom?
To demolish or remove a building.	(d) Building is erected in a catchment district and causes or is likely to cause pollution of the water supply.	Owner of Building.

Criteria: No other criteria.

Order No.3

To do what?	In what circumstances?	To whom?
To repair or make structural alterations to a building.	(c) Building is erected in a catchment district and causes or is likely to cause pollution of the water supply.	Owner of Building.

Criteria: No other criteria.

Order No.5

To do what?	In what circumstances?	To whom?
To take such action as is necessary to bring into compliance with relevant standards or requirements set or made by or under this Act or under the <i>Local Government Act 1919</i> : (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; (g) a water meter on premises; (h) a 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 <i>Plumbing and Drainage Act, 2011</i> .	Failure to comply with relevant standards or requirements set or made by or under this Act or under the <i>Local Government Act 1919</i> .	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 <i>Home Building Act 1989</i> 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.

Reference Number:	Version Number: 3	Review Date:	Responsible Officer:
	Date of Effect: 15/4/17	November 2020	DDPRS

Related Documents:

Criteria:

- 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) Clause 69 - "Adoption of Building Code of Australia", *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*;
- c) Schedule 2, Part 1-"Standards for Place of Shared Accommodation", *Local Government (General) Regulation 2005*. See Clause 83 of the regulation;
- d) Schedule 2, Part 2-"Standards for Hairdresser Shops", *Local Government (General) Regulation 2005*. See Clause 84 of the regulation;
- e) Schedule 2, Part 3 "Standards of Beauty Salons", *Local Government (General) Regulation 2005*. See Clause 85 of the regulation;
- f) Schedule 2, Part 4 "Standard for Mortuaries", *Local Government (General) Regulation 2005*. See Clause 86 of the regulation.

Order No. 7

To do what?	In what circumstances?	To whom?
To fence land.	Public health, safety or convenience renders it necessary or expedient to do so and there is no adequate fence between the land and a public place.	Owner or occupier of land.

Criteria: The condition, location or use of the land is a threat to public health, safety or convenience. This includes, but is not limited to:

- a) straying livestock;
- b) machinery;
- c) quarries;
- d) excavations; and
- e) stockpiles (soil, blue metal, timber and the like).

Order No. 8

To do what?	In what circumstances?	To whom?
To identify premises with such numbers or other identification in such manner as is specified in the order.	Premises have a frontage to or entrance from a road and there are no markings that can readily be seen and understood from the road.	Owner or occupier of land.

Criteria: An order would be served if there is unauthorised use of or duplication of numbers, numbers not in accordance with Council's numbering system, confusion / no identification of premises and the owner/occupier has not complied with a request from Council for rectification of the problem.

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

Order No. 9

To do what?	In what circumstances?	To whom?
To fence, empty, fill in or cover up a hole or waterhole in the manner specified in the order.	Hole or waterhole is or may become dangerous to life.	Owner or occupier of land.

Criteria: An order would be served if:

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

Order No. 10

To do what?	In what circumstances?	To whom?
To remove or stack articles or matter, to cover articles or matter, to erect fences or screens or to plant trees.	Land is in the immediate vicinity of a public place and is used for the storage of articles or matter so as to create or be likely to create unsightly conditions.	Owner or occupier of land.

Criteria: Property is unsightly, caused by the storage of articles in the immediate vicinity of a public place. Situations where this may apply include, but are not limited to:

- a) Disused motor vehicles, caravans, trailers, boats or parts related to these items;
- b) Disused machinery, equipment and appliances;
- c) Old, used or second hand materials (including building materials);
- d) Demolition material;
- e) Sand, soil, rock, blue metal and any other material derived from any extraction or dredging process;
- f) Any organic or vegetative material;
- g) Any industrial or commercial waste products;
- h) Any household rubbish or waste;
- i) Any recycled or composted material; and
- j) Furniture.

Order No. 11

To do what?	In what circumstances?	To whom?
To do or to refrain from doing such things as are specified in the order to prevent environmental damage, to repair environmental	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	Owner or occupier of land

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

<p>damage or to prevent further environmental damage.</p>	<p>(c) obstructing a natural watercourse other than by a work constructed or used under a water management work approval granted under the <i>Water Management Act 2000</i>, not being environmental damage arising from premises, works or equipment the subject of a licence issued under the <i>Protection of the Environment Operations Act 1997</i> or the subject of a notice or direction issued by a regulatory authority under that Act.</p>	
---	---	--

Criteria: No other criteria.

Order No. 12

To do what?	In what circumstances?	To whom?
<p>To do such things as are necessary to control the flow of surface water across land.</p>	<p>Other land, or a building on the land or other land, is being damaged or is likely to be damaged.</p>	<p>Owner or occupier of land.</p>

Criteria:

1. Erosion of land is occurring from the flow of surface water;
2. Physical damage to a building has occurred or is likely to occur;
3. Surface water flows across the land boundary onto other land.

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

- a) Water from defective guttering, down pipes or drainage (including underground drainage pipes);
- b) Water from rooves 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. This does NOT include stormwater runoff which is not redirected in any manner (i.e. natural surface flow) and follows existing natural land contours.

Orders requiring that premises be used or not used in specified ways

Order No. 15

To do what?	In what circumstances?	To whom?
<p>Not to conduct, or to cease conducting, an activity on premises (whether or not the activity is approved under this Act).</p>	<p>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.</p>	<p>Any person apparently engaged in promoting, conducting or carrying out the activity.</p>

Criteria: 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.

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

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

1. The storage of hazardous materials;
2. Construction work on or 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.

Order No. 16

To do what?	In what circumstances?	To whom?
To cease the use of premises or to evacuate premises.	A person to whom order No 15 is given has failed to comply with the order.	The person to whom order No 15 is given.

Criteria: No other criteria.

Order No. 17

To do what?	In what circumstances?	To whom?
To leave premises or not to enter premises.	A person to whom order No 15 is given has failed to comply with the order.	Any person.

Criteria: No other criteria.

Order No. 18

To do what?	In what circumstances?	To whom?
Not to keep birds or animals on premises, other than of such kinds, in such numbers or in such manner as specified in the order.	Birds or animals kept on premises are: (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.	Occupier of premises.

Criteria: Councils Local Orders Policy, Guidelines for the Keeping of Animals for Domestic Purposes provides for when this order may be given.

Order No. 19

To do what?	In what circumstances?	To whom?
To use or not to use a tennis court as specified.	Actual or likely annoyance or threat to the safety of neighbours or users of a public place.	Occupier of land.

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

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

1. 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.

Orders requiring the preservation of healthy conditions

Order No. 20

To do what?	In what circumstances?	To whom?
To do such things as are specified in the order to put premises, vehicles or articles used for the manufacture, preparation, storage, sale, transportation or other handling or use of or in relation to food into a clean or sanitary condition.	The premises, vehicle or article is not in a clean or sanitary condition.	Owner or occupier of premises or owner or operator of vehicle or article.

Criteria:

1. 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;
2. 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;
3. There is “non-compliance” with the following standards that cause the premises to be in an unclean or unsanitary condition as described above:
 - a) Food Standards Code;
 - b) AS 1668, Part 2;
 - c) NSW Food Authority “Food Handling Guidelines for Temporary Events”.

Order No. 21

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

Criteria: Land or premises would be considered not to be in a safe and or healthy condition if:

1. The safety or the health of the owner or occupier of the land or premises, or the community, is detrimentally affected; or

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

2. Conditions or activities create or are likely to create a health and/or safety risk to any person.

Action that can be required includes, but is not limited to, the following:

- 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 down piping [where it causes health and safety issues and not damage - See Order 12];
- c) Provision of adequate potable 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) Renewal or repair of defective sewerage service pipes;
- h) Clearing of choked sewerage service pipes;
- i) Repair of defective septic tanks, pipes and absorption pits;
- j) 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 putrescibles materials or other scrap materials; and
 - V. tree trunks, tree stumps, organic material, vegetation or firewood.
- k) Provision of suitable facilities for toilet, kitchen sink, bathing and for washing of clothes hot and cold water provided;
- l) Provision of suitable cooking facilities;
- m) The control of animal enclosures in so far as their operational aspects in relation to environmental health is concerned;
- n) The treatment of an untreated swimming pools or excavation where the condition of the water within is or is likely to be breeding mosquitoes;
- o) The boarding up or fencing off of a dilapidated building to prevent unauthorised access where there is a safety issue from injury or fire;
- p) Cleaning of garbage containers;
- q) Potential for collapse of a structure, or part thereof, such as a wall, fence or other building;
- r) Disconnection of an electric fence from its energiser or otherwise to render 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

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

- 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.

Order No. 22

To do what?	In what circumstances?	To whom?
To store, treat, process, collect, remove, dispose of or destroy waste which is on land or premises in the manner specified in the order, provided that it is not inconsistent with regulations made under the <i>Protection of the Environment Operations Act 1997</i> .	Waste is present or generated on the land or premises and is not being dealt with satisfactorily, and is not regulated or controlled by, or subject to, a licence or notice granted or issued under the <i>Protection of the Environment Operations Act 1997</i> .	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 or Order is to be given, the following criteria are to be taken into consideration:

1. 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.
2. Where waste is present on land or premises and is not being properly stored, collected or removed satisfactorily from those premises;
3. Defective site absorption septic tank system;
4. Disposal of human waste on site without an approved method of waste disposal.

Order No. 22A

To do what?	In what circumstances?	To whom?
To remove or dispose of waste that is on any residential premises or to refrain from keeping waste on those premises.	The waste is causing or is likely to cause a threat to public health or the health of any individual.	Owner or occupier of the premises.

Criteria: No other criteria. As per *Local Government Act 1993* s159(3).

Order No. 23

To do what?	In what circumstances?	To whom?
To connect premises to the Council's water supply by a specified date.	The premises are situated within 225 metres of a water pipe of the Council.	Owner or occupier of land.

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

Criteria:

1. Land on which the premises are located is subject to Council water availability charges.

Order No. 24

To do what?	In what circumstances?	To whom?
To connect premises with a sewerage system by a specified date.	The premises are situated within 75 metres of a sewer of the Council.	Owner or occupier of 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:

2. Land on which the premises are located is subject to Council sewer availability charges;
3. In the case of an existing sewage management facility:
 - a) is so defective to be a threat to public health; and/or
 - b) is likely to have a detrimental impact on the environment.

Order No. 25

To do what?	In what circumstances?	To whom?
Not to use or permit the use of a human waste storage facility on premises after a specified date.	It is necessary for the purpose of protecting public health.	Owner or occupier of premises.

Criteria: The human waste storage facility permits or is likely to permit human waste to discharge or overflow from the storage facility onto the adjacent ground or floor area and in a manner dangerous to public health.

Orders requiring the protection or repair of public places**Order No. 27**

To do what?	In what circumstances?	To whom?
To remove an object or matter from a public place or prevent any object or matter being deposited there.	The object or matter: <ol style="list-style-type: none"> (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. 	Person causing obstruction or encroachment or owner or occupier of land from which the object or matter emanates or is likely to emanate.

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

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

1. Definition of encroachment: advancement beyond property boundary onto public land;
2. Definition of obstruction: any hindrance to pedestrian or vehicular passage;
3. Definition of object or matter: Any article, item or thing which is visible and tangible and includes but is not limited to:
 - a) Advertising sign, advertisement generally;
 - b) Motor vehicles or motor vehicles parts;
 - c) Caravans or caravan parts;
 - d) Trailers/boats or trailer/boat parts;
 - e) Machinery, equipment and appliances;
 - f) Second hand materials including building materials;
 - g) Demolition materials;
 - h) Scrap materials;
 - i) Sand, soil rock, blue metal and any other material derived from any construction or dredging process;
 - j) Any organic or vegetative material;
 - k) Any industrial or commercial waste product;
 - l) Any household fixtures, rubbish or waste;
 - m) Second hand containers, bottles, scrap metal, waste paper, rags, or rubbish;
 - n) Any recycled or composted material.

Order No. 28

To do what?	In what circumstances?	To whom?
To take whatever steps are necessary to prevent damage to a public place and to repair damage to a public place.	There is actual or likely damage: (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.	(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 surface drainage flows or from which spray emanates.

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

1. Whether the activity is associated with any approval issued by Council;
2. If the activity is related to an approval issued by Council, whether the conditions of the approval being complied with.

Reference Number:	Version Number: 3	Review Date:	Responsible Officer:
	Date of Effect: 15/4/17	November 2020	DDPRS
Related Documents:			

Order No. 29

To do what?	In what circumstances?	To whom?
To alter or repair a work or structure on, over or under a public place.	It is in the public interest to do so?	Owner of the work or structure.

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

1. To alter or repair structures on, over, or under the public way not in accordance with approvals or considered unsafe or dangerous;
2. 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;
3. Driveway crossings which are not being maintained in a safe condition;
4. Shop awnings which are not being maintained in a safe or slightly condition;
5. Maintenance of underground pipes within a public place.

Orders requiring compliance with an approval

Order No. 30

To do what?	In what circumstances?	To whom?
To comply with an approval.	The approval is not being complied with.	Person entitled to act on the approval or person acting otherwise than in compliance with the approval.

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

1. An approval granted by Council has not been complied with; or
2. Conditions of an approval granted by Council have not been complied with.

Section 125 Order

Abatement of Public Nuisances

A council may abate a public nuisance or order a person responsible for a public nuisance to abate it.

Abatement means the summary removal or remedying of a nuisance (the physical removal or suppression of a nuisance) by an injured party without having recourse to legal proceedings.

Nuisance consists of interference with the enjoyment of public or private rights in a variety of ways. A nuisance is "public" if it materially affects the reasonable comfort and convenience of a sufficient class of people to constitute the public or a section of the public. For example, any wrongful or negligent act or omission in a public road that

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

interferes with the full, safe and convenient use by the public of their right of passage is a public nuisance.

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

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

Part 3 Other Matters Relating to Orders

What must Council consider before giving an order?

Council must ensure that:

- a) the type and circumstances of the order and the person on whom the order will be served are described in the Table to s124 LG Act; or
- b) the activity constitutes a public nuisance under s125 LG Act; and
- c) 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).

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 (LG Act s132(1) and (2)):

- a) the name of the person for whom the order is intended;
- b) the terms of the proposed order;
- c) how long the person will have to comply with the proposed order;
- d) 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;
- e) how, when and to whom representations can be made (LG Act s132(3));
- f) right of appeal to the Land and Environment Court and time period within which an appeal may be made (LG Act s138).

Who can make representations?

The person on whom the proposed order is to be served (or Australian legal practitioner or agent) can make representations.

How should representations be made and considered?

Representations can be made in writing to the Council and addressed 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.

What does Council do after hearing representations?

The Council, nominated committee or officer 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)).

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

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)).

What information should the order contain?

The order should contain:

- a) reasons for the order (LG Act s136(1)) except in urgent cases when reasons must be given the next working day (LG Act s136(3));
- b) any relevant provisions of the Act, Regulations and Local Approvals Policy and Local Orders Policy not complied with (LG(General) Reg cl 99(a));
- c) the period in which the terms of the order are to be complied with (LG Act s137(1))
- d) notice of the right to appeal against the order or part of the order (LG Act s138(1)(a)); and
- e) the time period within which an appeal can be made (LG Act s138(1)(b) including both periods where it is a "particulars of work" order);
- f) notice that it is an offence not to comply with an order and the maximum penalty (LG(General) Reg cl 99(b));
- g) notice that if the order is not complied with Council can undertake the work and recover costs (LG(General) Reg 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(2)).

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:

- a) accept the proposed works without modification and order the completion of the works immediately;
- b) accept the proposed works with modifications;
- c) 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.

Can Council recover any expenses involved in this process?

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

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 (LG Act s142(1)(2)(3)).

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

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

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

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

Council is able to give orders under other Acts provided authority has been given. For example Council may serve an order under the *Companion Animals Act 1998* prohibiting the exercising of greyhounds on certain roads or order the closure of food premises under the *Food Act 2003*. The relevant provisions of that other Act will apply in such circumstances.

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

The person is guilty of an offence under the LG 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, 7-12 (s124) – 50 penalty units for an individual 100 penalty units for a corporation;
- b) Orders Nos 15-17(s124) – 100 penalty units for an individual 200 penalty units for a corporation;
- c) Orders Nos 18-25 or 27-29 – 20 penalty units;
- d) Orders Nos 30(s124) – 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) Section 125 Offences – 20 penalty units.

One penalty unit is currently equal to \$110.

Is an approval necessary for work to be undertaken?

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).

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

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)).

Can Council carry out the works?

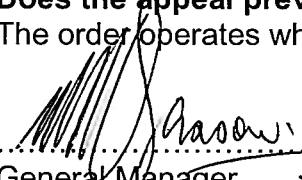
If a person does not comply with the terms of an order then Council can carry out the works and recover the costs (LG Act s141(5) and s678).

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 2007 pt7.1).

Does the appeal prevent the order from operating?

The order operates while the appeal is being heard in the Land and Environment Court.



 General Manager

22-5-2017

 Date

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			

Part 4 Order Given Under Section 124 Template

To : **[Insert full name and address of person or company to whom Order is being given]**

Date: **[Insert date order is issued.]**

ORDER UNDER SECTION 124 OF THE LOCAL GOVERNMENT ACT 1993.

Take notice that Glen Innes Severn Council hereby orders **[insert full name of person or company to whom Order is being given]** to do what is specified below in respect of premises situated at **[insert full address of premises including Lot and DP]** being an Order in terms of Order Number **[insert order number]** in the table to Section 124 of the *Local Government Act 1993*.

Order

The terms of the Order are that **[insert full name of person or company to whom Order is being given]** must:

1. **[insert the terms of the order i.e what is required to be done].**

Period for compliance with the Order

The Order must be complied with by **[insert time and date or period of time after service of the Order]**.

Reasons for the Order

The reasons for giving this Order are:

1. **[insert the reasons for the Order].**

You may appeal to the Land and Environment Court against this Order or a specified part of this Order within 28 days after the service of this Order upon you.

It is an offence under Section 628 of the *Local Government Act 1993* not to comply with this Order. The maximum penalty for such an offence is **[insert amount of penalty – presently can be up to 100 penalty units at \$110.00 per penalty unit depending upon the Order which is subject to change. Check Section 628]**.

Also, if this Order is not complied with the Council may do all such things as are necessary or convenient to give effect to the terms of the Order and recover the costs of so doing from the person required to comply with the Order.

Should you require further information in relation to the above, please contact **[name of Council Officer]** at the Council.

Yours faithfully

Signed:
[Insert name of signatory and position]
Glen Innes Severn Council

Reference Number:	Version Number: 3 Date of Effect: 15/4/17	Review Date: November 2020	Responsible Officer: DDPRS
Related Documents:			