



OVERGROWN VEGETATION ENFORCEMENT POLICY

Date: 10 July 2017

TRIM 151134.2017



1. LEGISLATIVE REQUIREMENTS

Local Government Act 1993
Noxious Weeds Act 1993

2. DEFINITIONS

Council: Liverpool City Council.

Authorised officer: An officer exercising delegated authority from the Chief Executive Officer of Council.

Overgrown vegetation: Grass/weed (excluding plants/trees) not being maintained and allowed to grow wild, beyond its normal size.

The Act: the *Local Government Act 1993*

Order No 21: A statutory order under the Act, served by council in circumstances when land, or premises, is not in a safe or healthy condition. The owner/occupier of the premises is required to do such things that are specified in the order, to ensure the land, or premises, is kept in a safe or healthy condition (s124 of the Act). Council may impose penalties upon owners/occupiers who fail to comply with this order.

3. BACKGROUND

Council receives numerous customer service requests regarding overgrown vegetation on privately owned properties within its local government area.

These requests are directed to Community Standards and allocated to authorised officers for investigation. The validity of the requests are ascertained, and subsequent enforcement action is taken when the vegetation is not being kept in a healthy or safe condition.

Some requests include rural properties with native vegetation and bushland, others clearly provide a harbourage for vermin, whilst some requests are made on the grounds that the land is untidy although not a health / safety issue.

The Act only allows councils to undertake enforcement action (Order No 21) when overgrown vegetation creates unhealthy / unsafe conditions. It cannot be applied to premises on the basis that they are untidy / unsightly.

Controversially, the Act and related regulation used to enforce overgrown vegetation, do not provide a definition nor prescriptive requirements for this type of health, environment and safety matter, thus leading to inconsistencies and confusion.

Other councils vastly differ in their enforcement approaches when dealing with overgrown vegetation, ranging from:

- Campbelltown Council commencing enforcement action on residential zoned premises when vegetation is **10cm** high; to
- Wollongong Council limiting its investigations to residential zoned premises (excluding other zoned premises) when the overgrown vegetation is a minimum height of **100cm** and covers over 50% of the land.

Currently, this Council does not have a policy that specifies the vegetation conditions triggering enforcement actions under Order No 21.

Although it does have a “Procedure for overgrown and accumulated waste on land” adopted on 17 April 2012, which specifies a maximum vegetation height of **10cm** on residential properties and a maximum vegetation height of **30cm** on rural properties.

Both measurements are considered onerous, and not legitimate grounds for enforcement action under Order No 21. Furthermore, this enforcement measure should not be applied to rural zoned properties, as it may conflict with its use, and is more prone to negatively impacting native vegetation communities and waterways.

4. PURPOSE

The purpose of this policy is to:

- a) Adopt a suitable criteria for deeming overgrown vegetation as unhealthy/unsafe.
- b) Ensure enforcement action is justifiable, and not undertaken on the basis of unsightly/untidy premises.
- c) Enable authorised officers to assess the vegetation conditions against the criteria outlined below, to ascertain whether enforcement action should be taken under Order No 21.
- d) Ensure native vegetation communities and waterways, including riparian corridors, are not negatively impacted by the removal of overgrown vegetation.
- e) Restrict enforcement action to residential zoned properties only.
- f) Develop best-practice procedures and templates re overgrown vegetation, to assist authorised officers in providing effective and consistent responses to land owners/occupiers and complainants
- g) Enable Customer Service to efficiently streamline overgrown vegetation requests.
- h) Update Council’s website to inform land owners/occupiers of their obligations under the Act in relation to maintaining their vegetation and land in a safe and healthy condition, to prevent it from becoming a fire hazard or harbourage for vermin.

5. CRITERIA FOR ENFORCEMENT ACTION UNDER ORDER NO 21

The criteria for authorised officers to deem overgrown vegetation as unhealthy/unsafe, and subsequently undertake enforcement action under Order No 21:

- a) The land is zoned residential (R1-R5); and
- b) Sufficient evidence has been obtained of harbourage of vermin (Example: photos, witness statements); or
- c) The overgrown vegetation:
 - Exceeds a height of **50cm** above the ground surface level; and
 - Is visibly **dense** (closely compacted).This scenario is considered unhealthy and unsafe because it is a likely harbourage for vermin.

The above criteria is not applicable to:

- Plants, trees and any threatened and/or protected species
- Properties within the riparian corridor of waterways
- Properties zoned rural, industrial, private recreation or commercial (RU1-RU4, IN1-IN3, RE2, B3-B6).

6. STREAMLINE CUSTOMER SERVICE REQUESTS

This policy enables Customer Service staff to efficiently streamline overgrown vegetation requests by:

- a) Accepting requests relating to:
 - Overgrown vegetation on residential zoned properties (R1-R5)
 - Noxious Weeds
- b) Redirecting requests relating to:
 - Bush fire hazard to the NSW Fire Rescue Service website
 - Community Housing to the NSW Department of Family and Community Services; and
 - Other Government Agencies (including Defence)
- c) Not accepting requests relating to:
 - Untidy/unsightly premises, that are not a safety/health concern
 - Properties zoned rural, industrial, private recreation or commercial (RU1-RU4, IN1-IN3, RE2, B3-B6).

7. UPDATE INFORMATION ON COUNCIL'S WEBSITE

In line with this policy, Council's website will be updated to inform land owners/occupiers of:

- Their obligations under the Act to maintain their land in a safe and healthy condition
- Council's legal obligation to enforce overgrown vegetation on residential zoned properties that are deemed unhealthy/unsafe
- My Aged Care free volunteers' assistance program, including lawn maintenance.

AUTHORISED BY

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EFFECTIVE FROM

10 July 2017

DEPARTMENT RESPONSIBLE

City Economy and Growth (Community Standards)

REVIEW DATE

Two years after the adoption of the policy

VERSIONS

Version	Amended by	Changes made	Date	TRIM Number
1	Chief Executive Officer	Original adoption	10 July 2017	151134.2017
2				

THIS POLICY HAS BEEN DEVELOPED IN CONSULTATION WITH

City Environment and Infrastructure (Sustainable Environment)
City Corporate Services (Governance and Legal Services) and (Customer Service)

REFERENCES

1. Enforcement Policy adopted by Council on 14 March 2016
2. Overgrown vegetation enforcement approach by other councils:
Canterbury-Bankstown, Parramatta, Fairfield, Blue Mountains, Wollongong, Tweed Shire, Greater Hume, Nambucca Shire, Walgett-Shire, Tenterfield and Campbelltown.