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## Appendix F

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Key Powers for Councils under the  
Protection of Environment and  
Operations Act

**KEY POWERS FOR COUNCIL UNDER THE PROTECTION OF THE ENVIRONMENT AND OPERATIONS ACT IN RELATION TO STORMWATER MANAGEMENT AND POLLUTION**

(source: Report submitted to Finance and General Committee for Rockdale Council on 4/11/98)

Process	Circumstances	Budgetary considerations (values are subject to State regulation)	Penalty Provisions
Section 91 Clean up Notice	Can be served in writing or orally by Council when a pollution incident has occurred or is occurring or is likely to occur. This notice cannot be used in relation to odours or noise.	\$320 administration fee payable to Council as a consequence of the service of the Notice.	<p>\$500 Penalty Infringement Notice for Individuals.</p> <p>\$1000 Penalty Infringement Notice for Corporations</p> <p>should the administration fee not be paid on time.</p>
		A compliance cost Notice can be served by Council to recover all of its reasonable costs to monitor compliance or carry out the clean up itself.	Unpaid compliance costs can be recovered as a debt and registered as a charge against property owner by the person or corporation is question.
		Failure to comply with the terms of the Clean up Notice.	<p>\$750 Penalty Infringement Notice for Individuals</p> <p>\$1500 Penalty Infringement Notice for Corporations</p> <p>or Legal Action with maximum penalties of</p> <p>\$250,000 (corporation)</p> <p>\$120,000 (individual)</p> <p>plus the liability to a daily penalty.</p>

Process	Circumstances	Budgetary considerations (values are subject to State regulation)	Penalty Provisions
Section 96 Prevention Notice (includes noise and odour emission)	Can be served by Council in respect of an activity that has been, or is being conducted in an environmentally unsatisfactory manner. Such Notices can be very comprehensive in their nature even requiring such actions as the recipient to prepare a plan of action to control, prevent or minimisation of pollution or waste.	\$320 administration fee payable to Council as a consequence of the service of the Notice	<p>\$500 Penalty Infringement Notice for Individuals.</p> <p>\$1000 Penalty Infringement Notice for Corporations</p> <p>should the administration fee not be paid on time.</p>
		A compliance cost can be served by Council to recover all of its reasonable costs to monitor compliance or carry out the clean up itself.	Unpaid compliance costs can be recovered as a debt and registered as a charge against property owner by the person or corporation is question.
		Failure to comply with the terms of a Prevention Notice	<p>\$750 Penalty Infringement Notice for Individuals</p> <p>\$1500 Penalty Infringement Notice for Corporations or Legal Action with maximum penalties of</p> <p>\$250,000 (corporation)</p> <p>\$120,000 (individual)</p> <p>plus the liability to a daily penalty.</p>

Process	Circumstances	Budgetary considerations (values are subject to State regulation)	Penalty Provisions
Powers of Entry to Premises by Council- authorised Officers (Parts 4.6 and 7.4)	The authorised officer can enter commercial, industrial and agricultural premises whilst the activity is being carried out or at any time when pollution is suspected. Advance notice is not required. This does not apply to residential premises.		Maximum penalties for obstruction of authorised persons: \$250,000 (corporation) \$120,000 (individual) plus the liability to a daily penalty.
Power for Council to take legal proceedings for Tier 1 offences currently only available to the EPA	There are three tiers of offences, Tier 1 being the most serious level of offences, Tier 2 are other offences and Tier 3 are the more minor offences where the on the spot penalties are warranted		Land and Environment Court or the Supreme Court \$1,000,000 (corporation) \$250,000 (individual and/or 7 years imprisonment for an individual
Increases in certain on-the-spot fines (Penalty Infringement Notices) and the creation of new fines	Polluting waters		currently \$600 Proposed \$750 (individual) \$1500 (corporation)
	Cause air pollution		\$750 (individual) \$1,500 (corporation)
	Using land unlawfully for waste (nor littering)		\$750 (individual) \$1,500 (corporation)
	Littering for a motor vehicle		\$200 (individual) \$400 (corporation)
Power to obtain information for the purposes of the POEO Act	An authorised officer can require a person to answer questions that based on a reasonable suspicion, the officer suspects to have knowledge, for example, about a pollution incident		Maximum penalty \$11,000