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## Policy 4.05 Enforcement and Compliance

<b>Directorate</b>	Community, Environment and Planning
<b>Responsible Officer</b>	Director Community, Environment and Planning

### Table of Contents

1.1	Introduction	2
1.1.1	Scope	2
1.1.2	Purpose	2
1.2	Definitions	2
1.3	Legislation	2
1.4	Implementation	3
1.4.1	Policy Statement	3
1.4.2	Responsibilities	4
1.5	Supporting documents	4
1.5.1	BVSC Procedures that relate to this Policy	4
1.5.2	BVSC Policies that relate to this Policy	4

## 1.1 Introduction

### 1.1.1 Scope

This Policy provides the basis for consistency, fairness and transparency in regards Council's compliance and enforcement activities.

### 1.1.2 Purpose

The purpose of this policy is to establish direction and guidelines for Council staff in the management of Council's regulatory function. It provides workable guidelines on:

- Responding to reports alleging unlawful activity.
- Assessing whether reports alleging unlawful activity require investigation.
- Deciding on whether enforcement action is warranted.
- Options for dealing with confirmed cases of unlawful activity.
- Taking legal action, and
- Implementing shared enforcement responsibilities.

## 1.2 Definitions

Word or Terminology	Description
<b>Enforcement</b>	Actions taken in response to contraventions of laws.
<b>Regulation</b>	Using a variety of tools and strategies to influence and change behaviour to achieve the objectives of an Act, Regulation or other statutory instrument administered by Council.
<b>Unlawful Activity</b>	Any activity or work that has been or is being carried out contrary to an Act of legislation administered by Council.

## 1.3 Legislation

This Policy applies to regulatory enforcement within Council's area of responsibility under the following legislation:

- *Environmental Planning & Assessment Act 1979*
- *Local Government Act 1993*
- *Protection of the Environment Operations Act 1997*
- *Companion Animals Act 1998*
- *Impounding Act 1993*
- *Food Act 2003*
- *Biosecurity Protection Act 2016*
- *Contaminated Land Management Act 1997*
- *Swimming Pools Act 1992*

and associated Regulations.

This assists Council to maintain the following:

- Environmental protection
- Public health and safety
- Development and building control
- Environmental health and food safety
- Biodiversity conservation & tree protection
- Biosecurity
- Animal control in public places
- Fire safety
- On site sewage management

## 1.4 Implementation

### 1.4.1 Policy Statement

Bega Valley Shire Council will manage enforcement and compliance activities in a systematic manner by:

- Ensuring its obligations under Section 8 of the *Local Government Act 1993* are adhered to ensuring regulatory powers are carried out in a consistent manner and without bias.
- Ensuring that all delegated authority requirements are up to date and recorded for Authorised Officers and Council staff who are required to act under the listed legislation.
- All decision making relating to the investigation of reports alleging unlawful activity and taking enforcement action is the responsibility of appropriately authorised staff or of the Council itself.
- Ensuring that all enforcement activities carried out by Authorised Officers and ancillary staff are carried out in accordance with the procedures associated with this and associated policies.
- Following the principles of the NSW Ombudsman's Enforcement Guidelines for Councils (2015), Guidelines for Cautions issued by the attorney General under the *Fines Act 1993*, the NSW Director of Public Prosecution's Prosecution Policy and Guidelines, the NSW EPA's Enforcement Guidelines and Council's Enforcement and Compliance and Parking Enforcement Guidelines in regard to the enforcement and compliance functions that comprise the procedures and guidelines associated with this Policy.
- Ensuring all Council compliance and enforcement actions are underpinned by the following principles:

Principle	Action
Accountability & transparency	<p>Acting fairly and impartially and without bias or unlawful discrimination.</p> <p>Acting in the best interest of public health and safety and in the best interests of the environment.</p> <p>Providing information about compliance and enforcement priorities and reasons for decisions.</p> <p>Acting on any complaints or concerns about the conduct of compliance officers in accordance with Council's complaint management procedures.</p> <p>Advising people and organisations subject to enforcement action of avenues available to seek a review of a decision.</p>
Consistency	<p>Ensuring all compliance and enforcement action is implemented consistently.</p> <p>Encouraging reports about possible unlawful activity by acting reasonably in response to the circumstances and facts of each matter.</p>
Timeliness	<p>Ensuring responses to reports alleging unlawful activity and decision making in relation to those is timely and within statute of limitations and reporting obligations.</p>

Principle	Action
Proportional	<p>Ensuring the level of enforcement action is proportional to the level of risk and seriousness of the breach or offence.</p> <p>Making cost effective decisions about enforcement action.</p> <p>Taking action to address harm and deter future unlawful activity.</p>

## 1.4.2 Responsibilities

Council receives information about alleged unlawful activity from members of the public, information gathered by staff during proactive inspections, and contact from other government agencies such as NSW EPA. Only staff with the appropriate delegations from the Council /Chief Executive Officer can undertake investigation or compliance and enforcement action. Council staff delegations for taking action under this Policy are included in Council's Delegations Register.

All staff with responsibility for investigating reports alleging unlawful activity are responsible for implementing this Policy. Authorised Officers may utilise body worn camera technology to assist with compliance activities.

Staff are also responsible for ensuring that any other possible unlawful activity identified as a result of an inspection or information received, is brought to the attention of the relevant Council section or government agency.

## 1.5 Supporting documents

### 1.5.1 BVSC Procedures that relate to this Policy

Procedure No.:	Procedure Name	External or Internal Procedure
4.05.01	Enforcement and compliance guidelines	Internal
4.05.02	Penalty infringement notice procedures	Internal
4.05.03	Court attendance notice and brief preparation	Internal
4.05.05	Body worn camera	Internal
4.05.06	Evidence management (under development)	Internal

### 1.5.2 BVSC Policies that relate to this Policy

Policy No.:	Policy Name
4.03	Public regulation
4.04	Companion animal management
3.04	Biosecurity and weed management

**Note:** Policy details may change from time to time. To ensure you are viewing the most recent version please view Council's adopted Policies and Procedures on Council website: