

O1 Enforcement Policy

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| Purpose | To provide clear guidance for the investigation and resolution of illegal building works and other enforcement issues, with a strong emphasis on assisting applicants to achieve compliance. |
| Department | Development Services |
| File No. | ADM/0900 |
| Council Meeting Date | 22 September 2020 |
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| Next Review Date | 02.2023 |
| Review History | |

1 Definitions

Authorised Officer - a Council Officer or person appointed by the General Manager or the Council for the purposes of administering and enforcing legislation.

Council - the Flinders Council.

Enforcement - to compel compliance to a law or regulation.

Legislation - means any statute, regulation or rule for which Council has administration and enforcement functions and powers.

Permit Authority – the position appointed by Council, under the *Building Act 2016*, for the purpose of administering the requirements of the Act.

Building Notice – a notice issued under the Building Act 2016 with regard to illegal building and or plumbing works. This notice acts as a “show cause” notice to allow landowners to present their case to Council to justify any allegation received or noted.

Infringement – a notice of financial penalty issued to a person responsible for compliance with regard to the enforcement matter. ~~landowner for misconduct carried out on their land.~~

Responsible Person – a person or entity accountable ~~accountable~~ under legislation to for attend to the enforcement matter. ~~or entity accountable to attend to the enforcement matter.~~

2 Objective

That Council will execute its legal functions and powers, as required under the relevant Acts, ~~identified below~~, with particular regard to enforcement within the Municipality, in the context of the investigation and resolution of illegal building works, planning and other enforcement issues, in a fair and transparent manner that promotes outcomes centered around compliance in health, safety and the environment ~~voluntary compliance~~.

3 Scope

This policy applies to the Council and its ~~appointed Permit~~ Authorised Officers ~~regarding~~ in the investigation and resolution of illegal building works, planning compliance, animal management and matters affecting environment and health. ~~Council's regulatory function has been delegated to Authorised Officers.~~

4 Policy

It is the Policy of Council that:

4.1 Council will aim to address all suspected enforcement matters ~~of suspected illegal building works as as~~ they are advised of in writing or identified by Council's Authorised Officers in the course of their duties.

4.2 Council aims to provide sufficient information and support to the responsible person to enable them to both understand their responsibilities and achieve voluntary compliance with relevant legislation and regulations.

4.14.3 All matters ~~will beare~~ prioritised based on the Compliance Risk Matrix (Appendix 1).

4.24.4 Penalties may occur through higher application fees or infringements.

4.34.5 Council's Authorised Officer ~~will aims~~ to assist all affected parties to achieve satisfactory compliance with relevant legislation and regulations.

~~4.4 Council's Authorised Officer will inform Council of any enforcement matters as issues arise.~~

4.54.6 Council maintains the utmost confidentiality with regard to any matter and any enforcement process.

4.64.7 Council will ensure that any person against whom a complaint is made and is being considered under this Policy, in relation to a potential breach or contravention of legislation, is provided with natural justice and procedural fairness.

4.74.8 Duties will be carried out in a fair, consistent and transparent manner.

4.84.9 Council's enforcement of legislation will be consistent, prompt, impartial and in ~~line~~ keeping with this policy.

5 Procedure

This Policy should be read in conjunction with the Enforcement Procedure.

6 Legislation

~~Local Government Act 1993~~

Building Act 2016

Dog Control Act 2000

~~Food Act 2003~~

Environmental Management & Pollution Control Act 1994

Food Act 2003

Land Use Planning & Approvals Act 1993

Local Government Act 1993

7 Responsibility

O1 Enforcement Policy

Version1
Page 2 of 3

Council, and/or the General Manager, has authority to appoint Authorised Officers and Permit Authorities to uphold the requirements of specific legislation. Regulatory functions are assigned by Council through adoption of a delegations register. These delegations are provided to Authorised Officers so that they may respond to routine compliance and enforcement requests and meet Council's service standards in the provision of regulatory functions.

Appendix 1: Compliance Risk Matrix