

Policy 4.05 Enforcement and Compliance

Directorate	Community, Environment and Planning
Responsible Officer	Director Community, Environment and Planning

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Record of Administrative Amendments

<u>Amendment Version No.:</u>	<u>Description of Administrative Amendment</u>	<u>Date Reviewed</u>
4.2	Version placed on public exhibition (D25/37403)	May 2025
4.1	Review of policy in accordance with Section 165 of the <i>Local Government Act 1993</i> Workshopped by Councillors on 9 April 2025	March 2025
4	Adopted by Council (D22/71065)	20/07/2022

1 Introduction

1.1 Scope

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

The scope of this policy demonstrates direct commitment to the following strategic guiding principles:

- Accountable | clear accountability; explaining and answering for the consequence of decisions; clear roles and responsibilities; commitment to risk management and compliance and proactive consultation and engagement organisation wide; proactive consultation and engagement internally between business areas and externally with key stakeholders
- Transparent | decision making processes are clearly outlined, including how a decision is made and who is involved; stakeholders are informed of progress of actions in line with decisions; commitment to open communication; nurturing a trusting and supportive partnership with community, local businesses and funding partners
- Responsive | commitment to serve the needs of the entire community; improved organisational agility to respond to change; timely and accurate information sharing with community and stakeholders

1.1.2 Purpose

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

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

1.2.3 Definitions

Word or Terminology	Description
Enforcement	Actions taken in response to contraventions of laws.
Regulation	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.
Unlawful Activity	Any activity or work that has been or is being carried out contrary to an Act of legislation administered by Council.

2 Legislation

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

- Biosecurity Act 2015
- Companion Animals Act 1998
- Contaminated Land Management Act 1997
- Environmental Planning and Assessment Act 1979
- Food Act 2003
- Local Government Act 1993
- Protection of the Environment Operations Act 1997
- ~~Companion Animals Act 1998~~
- Public Health Act 2010
- Public Spaces (Unattended Property) Act 2021
- ~~Impounding Act 1993~~
- ~~Food Act 2003~~
- Biosecurity Protection Act 2015
- ~~Contaminated Land Management Act 1997~~
- Road Rules 2014
- ~~Public Health Act 2010~~
- Swimming Pools Act 1992

and associated Regulations.

This assists Council to maintain the following:

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

1.3 Implementation

1.4.3.1 Policy Statement

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

- Adhering to ~~Ensuring~~ its obligations under Section 8 of the *Local Government Act 1993*, ~~are adhered to~~ ensuring regulatory powers are exercised consistently ~~carried out in a consistent manner~~ and without bias.

- ~~Keeping Ensuring that~~ all delegated authority requirements ~~are~~ up to date and recorded for Authorised Officers and Council staff ~~who are required to acting~~ under the listed legislation.
- ~~Assigning responsibility for All decision making relating to the~~ investigation of reports alleging unlawful activity ~~to,~~ and taking enforcement action ~~by, to is the responsibility of~~ appropriately authorised staff or ~~of~~ the Council itself.
- Ensuring ~~that~~ all enforcement activities ~~are~~ 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 ~~A~~ttorney 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~~ based on the following principles:

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

1.43.2 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 the NSW EPA. Only staff with the appropriate delegations from the elected 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 responsibleity for investigating reports of allegeding unlawful activity must 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 potential unlawful activity identified during as a result of an inspections or from received information received, is reported to brought to the attention of the relevant Council section or government agency.

3.2.1 Elected Council

~~Insert Delegate text here~~ authority to the Chief Executive Officer to undertake compliance and enforcement functions.

3.2.2 Chief Executive Officer (CEO), Leadership Executive Group (LEG)

Delegate authority to the Authorised Officers to undertake compliance and enforcement functions in accordance with the relevant legislation.

~~Insert text here~~

3.2.3 ~~(insert Directorate or section details)~~ Authorised Officers

~~Insert te~~All staff responsible for investigating reports of alleged unlawful activity must undertake their work in accordance with this policy and Council's delegations register. Authorised Officers may use body worn camera technology to assist with compliance activities in accordance with the relevant procedures.

Authorised Officers are responsible for ensuring that any other potential unlawful activity identified during inspections or from received information is reported to the relevant Council section or government agency.

~~xt here~~

~~— (insert position name details if applicable)~~

~~Insert text here~~

4 Supporting documents

4.1.1 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

4.1.2 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 [the Council website: www.begavalley.nsw.gov.au](http://www.begavalley.nsw.gov.au)