

OFFICIAL

Strathbogie Shire Council Compliance and Enforcement Policy

April 2025



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Compliance And Enforcement Policy

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PART 1 POLICY

1. PURPOSE

Strathbogie Shire Council and the community have a shared responsibility to protect public amenity and maintain community safety. As a part of this commitment, Council has the legal obligation to ensure compliance under several Acts, regulations and laws. This legislation plays a vital role in achieving positive outcomes for community health, safety and amenity.

The purpose of this policy is to establish a framework for transparent decision-making and to promote a practical and proportionate approach to regulatory and enforcement activities. It aims to ensure that all enforcement and compliance actions undertaken by Council to safeguard public amenities, community safety, and the environment are carried out with integrity, independence, consistence, and with the public interest as a priority.

2. POLICY STATEMENT

Strathbogie Shire Council is committed to:

- Promoting fairness, transparency, and accountability in its regulatory and enforcement activities.
- Applying a consistent and proportional approach to compliance, ensuring the protection of public safety, community amenity, and the environment.
- Enabling community members to report concerns and engage with Council processes in an open and inclusive manner.

This policy aligns with other Strategic Plans of Council and reinforces Council's dedication to acting with integrity, ensuring decisions are clear and justifiable, and building trust by prioritising the public interest in all enforcement and compliance activities.

3. APPLICATION OF THIS POLICY

This policy is relevant to a broad range of regulatory and enforcement activities undertaken by Council's Authorised Officers within the municipality. This includes, but is not limited to, the following legislation administered by Council:

- *Building Act 1993*
- *Country Fire Authority Act 1958*
- *Domestic Animals Act 1994*
- Domestic Animals Regulations 2015
- *Environment Protection Act 1970*
- *Fire Rescue Victoria Act 1958*
- *Food Act 1984*
- *Impounding of Livestock Act 1994*
- *Infringements Act 2006*
- Infringements Regulations 2016
- *Local Government Act 1989*
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Prevention of Cruelty to Animals Act 1986*
- Prevention of Cruelty to Animals Regulations 2008

- *Public Health and Wellbeing Act 2008*
- *Public Health and Wellbeing Regulations 2009*
- *Tobacco Act 1987*
- *Residential Tenancies Act 1997*
- *Road Safety Act 1986*
- *Road Safety Road Rules 2017*
- *Road Management Act 2004*
- *Summary Offences Act 1966*
- *Community Local Law No 2*

This policy does not aim to restrict the discretion or official duties of Council's authorised officers. It acknowledges that, in some situations, legislation may mandate specific actions that authorised officers must take when addressing non-compliance. Officers are expected to consider the full context and details of each case, make decisions on their merits, and ensure alignment with legislative requirements.

4. DEFINITIONS

Term	Meaning
Authorised Person	means a person who is authorised by Council under an Act, regulation or local law to exercise appropriate powers under an Act, regulation or local law
Complaint	means a customer request or action
Compliance	Refers to an agency, corporation, or person meeting or taking steps to comply with relevant laws and regulations
Council	means the Strathbogie Shire Council
Duty Holder	refers to any person that is under a legal duty to do something, or refrain from doing something, or to prevent something from occurring. Who the duty holder is, and the role or capacity they have, will vary depending on the law that creates the duty.
Enforcement	means a range of procedures and actions taken by Council to ensure that a person or organisation complies with their statutory obligations
Enforcement Decisions	includes any decision made by an Authorised officer during the investigation or prosecution of an alleged breach of the law.
Notice/Order	Is a written direction of an Authorised Officer requiring specific action to be taken or ceased to achieve legislative compliance.
Offence	means an act, default or conduct prejudicial to the community, the commission of which by law renders the person responsible liable to punishment by fine or imprisonment
Prosecution	means the institution and conduct of legal proceedings against a person, organisation or corporation for an alleged offence(s).
Summary Offence	Is a criminal act in some common law jurisdictions that can be proceeded with summarily, without the right to a jury trial and/or indictment (required for an indictable offence)

Unlawful Activity	means any act or omission that is contrary to law, including any Act, Regulation, or other statutory instrument administered or regulated by Council.
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5. COUNCIL’S APPROACH TO REGULATION AND ENFORCEMENT

The Primary aim of Strathbogie Shire Council regulatory and compliance services is to assist community members, businesses and visitors to:

- Understand laws that may impact them and their legal obligations
- Voluntarily comply with relevant legislation
- Rectify non-compliance issues within a reasonable timeframe
- Prevent further or repeated instances of non-compliance.

In fulfilling its regulatory responsibilities, Council adopts a structured approach to education, and enforcement to achieve legislative compliance. This approach is outcome focused, escalating proportionately based on factors such as the level of risk, community harm, the seriousness of the breach, the potential to achieve compliance, and the need for deterrence.

- **Education** – Providing accessible information, advice, and education in various formats, including in-person engagement, to raise awareness, encourage compliance and proactively prevent breaches.
- **Encouragement** - Offering clear instructions and allowing reasonable time to address breaches or meet requirements, often through verbal directions, correspondence, or other informal measures.
- **Enforcement** – Taking formal actions such as issuing orders or notices, imposing fines, conducting rectification works, seizing items, or initiating legal proceedings to remedy breaches and deter further non-compliance.

6. GUIDING PRINCIPLES

Strathbogie Shire Council will conduct compliance and enforcement activities within a structured legal and policy framework. All enforcement actions and decisions will be guided by the following principles:

Proportionality	<p>A proportional response means that enforcement actions will correspond to the severity of the breach.</p> <p>Strathbogie Shire Council acknowledges that most individuals aim to comply with the law and will support compliance by being open and helpful. Informal guidance may be provided, and individuals will have the opportunity to discuss compliance challenges.</p> <p>Focus will be placed on those whose actions present the greatest risks, or where hazards are least effectively controlled. Depending on the seriousness and frequency of the violation, the Council will aim to minimise the burden on the individual by enforcing only the necessary actions to ensure future compliance.</p>
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	<p>Prosecution will generally be considered as a last resort or for serious violations. Legal proceedings may be required in cases where the hazard is significant or widespread in the community, serving to deter future breaches.</p>
<p>Consistency</p>	<p>Strathbogie Shire Council aims to apply a consistent approach in similar cases to achieve consistent outcomes.</p> <p>While professional judgment and discretion are necessary to assess the unique circumstances of each case, officers will:</p> <ul style="list-style-type: none"> •Follow established procedures •Ensure fair, equitable, and non-discriminatory practices •Record and justify any deviations from standard procedures
<p>Transparency</p>	<p>Council is committed to being transparent about its enforcement processes and the laws it upholds. Council officers will clearly communicate expectations and maintain detailed records of every investigation.</p> <p>In educating the community and engaging with duty holders, Council will distinguish between what is legally required and what is desirable but not mandatory.</p> <p>Officers will remain open to discussions regarding potential and actual breaches, both before and after enforcement decisions are made.</p> <p>When remedial action is required, officers will provide clear, understandable explanations about why such action is necessary. Where applicable, officers will give prior notice of the intention to take formal action, outlining the steps required to achieve compliance and the timeline for doing so. Information about the right to request a review or appeal of the decision will be provided where relevant.</p> <p>In cases where notice cannot be given, officers will document the reasons for this.</p> <p>Customers/Complainants will be informed about the action taken and the rationale behind it.</p> <p>Any private or confidential information received during investigations will be handled in accordance with legal requirements and our Complaints Policy. Customers/Complainants may be informed of the steps Council has taken but may not be provided with personal information about the duty holder or their circumstances that influenced the enforcement decision.</p>

	<p>Strathbogie Shire Council acknowledges that enforcement actions sometimes require public disclosure, which helps the community understand Council’s role and the consequences of legal violations. However, when releasing information to the media, Council will also consider:</p> <ul style="list-style-type: none"> •Whether disclosing information could interfere with ongoing enforcement activities •If the investigation is still in progress or incomplete; and •Whether there are any factors specific to the complainant or duty holder that could lead to misleading or incomplete public information <p>In such cases, it may be appropriate for Council to withhold public comment.</p>
	<p>In determining the appropriate response to non-compliance, Council will take into account:</p> <ul style="list-style-type: none"> •The level of risk the non-compliance presents to community health, safety, and amenity •Whether Council is best placed to address the issue of non-compliance; and •The most efficient allocation of the Council's regulatory resources <p>This approach acknowledges that it is neither feasible nor appropriate for Council to respond to every alleged violation. Instead, Council’s focus will be on areas where there is the greatest risk to public health, safety, and community wellbeing.</p> <p>The following diagram (Figure 1) demonstrates how Council assesses risk by evaluating both the likelihood and the severity of potential harm.</p>

Figure 1.

	LIKELIHOOD				
CONSEQUENCE	(1) Almost Certain	(2) Likely	(3) Possible	(4) Unlikely	(5) Rare
(A) Catastrophic	E	E	E	H	H
(B) Major	E	H	H	H	M
(C) Moderate	H	M	M	M	L
(D) Minor	M	M	L	L	L
(E) Insignificant	L	L	L	L	L

E = EXTREME risk; do not proceed with activity, immediate action required.
H = HIGH risk; senior management attention needed.
M = MEDIUM risk; management responsibility must be specified.
L = LOW risk; manage by routine procedures and monitor for future change

7. AUTHORISATION OF OFFICERS

Only officers who possess the necessary training, qualifications, and/or experience will be authorised to carry out enforcement actions. Additionally, officers will be thoroughly trained and knowledgeable about Council’s policies and procedures to ensure a consistent approach in the performance of their duties.

Officers are expected to present their authorisations when requested.

In most cases, enforcement staff will make decisions based on:

- Established operating procedures
- Defined business practices; and
- Guidance from more experienced officers

8. CONFLICTS OF INTEREST

Where a personal association or relationship with the alleged offender or any other person involved exists the Authorised Officer will ensure that:

- an alternative Authorised Officer will investigate and make decisions where possible
- a supervisor will be notified
- the facts about any conflict/relationship will be recorded in accordance with Council’s Staff Code of Conduct CEO Directive
- a conflict-of-interest disclosure form will be completed if required.

9. INVESTIGATING NON-COMPLIANCE

Authorised Officers may initiate investigations into unlawful conduct based on information provided by the public, reports from external agencies, surveillance activities (such as the use of cameras in areas prone to littering or graffiti), or through proactive initiatives such as audits and inspections (e.g., fire prevention checks, parking patrols, or assessments related to permits and registrations). Officers may also oversee compliance with court or VCAT orders.

Reports of potential violations are evaluated to determine the level of risk, priority, and appropriate response. Anonymous reports are recorded and assessed; however, limited information can restrict follow-up actions.

10. ENFORCEMENT MECHANISMS

A variety of enforcement mechanisms may be applied, depending on the specifics of each case. These mechanisms, provided under relevant legislation, allow Authorised Officers to investigate, collect evidence, and address non-compliance. Responses are expected to be fair, consistent, and proportional, ensuring community safety and trust.

If a decision is made not to investigate, reasons are documented, and the reporting party (if known) is informed. Factors influencing enforcement decisions include:

- Credibility of the information received
- Risk level associated with the alleged breach
- Seriousness of the issue
- Intent or negligence involved
- History of similar conduct
- Likely outcomes of enforcement actions
- Capacity to comply
- Deterrent effects on the individual and community; and
- Impacts on the wider community

Council's Authorised Officers will assess each matter by utilising the tools outlined in Diagrams 1 and 2 below, in alignment with the Council's Risk Management Framework. These tools assist officers in prioritising compliance actions and determining the most suitable enforcement options for each case.

Table 1: Likelihood of Non-Compliance Rating

Likelihood of Non-Compliance	Description
Almost Certain	Recurrent non-compliance, previous legal action for similar or related violations, failure to take corrective actions as instructed, refusal or failure to comply with an officer's direction or provide required information, submission of false or misleading information, obstruction of an officer.
Likely	Intentional or deliberate non-compliance, past enforcement actions for similar or related violations, clear and obvious requirements when the breach occurred

	(e.g., signage, permit conditions), significant negligence leading to the breach, little to no indication of capacity to meet regulatory obligations, insufficient efforts to remedy risks or damage caused by the breach.
Possible	Previous instances of non-compliance, lack of awareness of regulatory obligations, negligence resulting in the breach, insufficient actions taken to fully comply with requirements or instructions, risks have been mitigated, some corrective measures or actions have been taken, displays willingness and capacity to comply.
Unlikely	No history of non-compliance, little to no awareness of regulations, cooperative approach, demonstrates strong willingness and capacity to comply, promptly addressed the breach and implemented corrective actions to resolve harm or risks.

Table 2: Impact / Consequence of Non-Compliance Descriptor

Consequence	Description
Major	Significant impact on community or environment. Imminent or severe risk to safety, health, amenity, or environment, even if harm has not yet occurred. High public interest in the issue, requiring specific and/or general deterrence.
Moderate	Moderate impact on community or environment. High level of risk to safety, health, amenity, or environment, even if no harm has occurred. Substantial public interest, with a strong need for deterrence.
Minor	Minor impact on the community or environment. Low to medium risk to safety, health, amenity, or environment that can be easily or quickly addressed. Some corrective actions or measures required. Medium public interest, with some need for deterrence.
Negligible	Minimal or no impact on safety, health, amenity, or environment. Low potential for broader community concern. Unsubstantiated or frivolous reports that fall outside Council's jurisdiction.

Table 3: Enforcement Response Matrix

Likelihood of Non-Compliance	Impact / Consequence of Non-Compliance			
	Negligible	Minor	Moderate	Major
Almost Certain	Elevated	Elevated	Significant	Significant
Likely	General	Elevated	Elevated	Significant
Possible	Low	General	Elevated	Significant
Unlikely	Low	Low	General	Elevated

Table 4: Enforcement Actions Enforcement Response Level	Possible Enforcement Actions
Low	<p>No Action – Record Only: This option may be considered appropriate following an initial assessment or investigation under the following circumstances:</p> <ul style="list-style-type: none"> • There is insufficient evidence to support that a breach of legislation has taken place or is currently occurring. • The report originates from an anonymous source, and the information provided is inadequate to locate the alleged violation or justify further investigation. • The concerns raised are deemed to be trivial, vexatious, or without merit. • The alleged violation falls outside of Council’s jurisdiction or authority (in which case, a referral to the relevant agency may be necessary). • Taking enforcement action could compromise other significant ongoing investigations. • The issue constitutes a civil dispute that is better suited for resolution through alternative means (e.g., boundary disputes). • The issue has already been addressed through voluntary compliance. <p>Informal Action Informal action may be appropriate when the circumstances outlined above do not apply, and the risk level is considered low. Options for informal action include:</p> <ul style="list-style-type: none"> • Providing advice or information regarding regulatory requirements and how to achieve compliance, either verbally or in writing. • Engaging in discussions with the individual to reach a voluntary agreement or undertaking to resolve the issue. • Sending a letter requesting work to be completed, activity to cease, or permits to be obtained, as an alternative to more formal enforcement steps. • Issuing a verbal or written warning. <p>Informal action is also more suitable when the likelihood of a successful prosecution is low or when the matter could be resolved through less formal means.</p>

	<ul style="list-style-type: none"> •
General	<p>General Action may include the following:</p> <ul style="list-style-type: none"> • Issuing a notice to comply or other legal direction to remedy a breach of legislation
Elevated	<ul style="list-style-type: none"> • Issuing a penalty infringement notice • Council carrying out the required work specified in a compliance notice or legal directive if the person fails to comply (at the individual's expense). • Executing warrants or court orders to search premises, seize items, animals, or restrict access. • Initiating formal administrative proceedings (e.g., dangerous dog declarations). • Responding to legal actions initiated by individuals challenging Council's enforcement measures. • Entering into formal agreements or undertakings with the individual. • Pursuing a court injunction to prevent further unlawful activity. • Enforcing court orders to carry out work or remove individuals from premises. • Starting legal proceedings or prosecution for violations of relevant laws or regulations. • Monitoring court orders to ensure ongoing compliance. • •
Significant	<ul style="list-style-type: none"> • Seeking an injunction through the courts to prevent future or continuing unlawful activity • Executing court orders to conduct works or remove a person from a premises • Commence prosecution or other legal proceedings for an offence against the relevant Act or Regulation. • Monitoring orders of the court to ensure ongoing compliance

11. DECISION REVIEWS AND APPEALS

Where no statutory right of review applies

If a person has a complaint about an *enforcement decision* within the meaning of this policy, the person may request that the *enforcement decision* be reviewed by an alternative decision maker.

Where it is practicable to do so, an alternative decision maker will review the enforcement decision, applying the principles in this policy.

Where it is practicable to do so, the reviewing officer will advise the requestor of the outcome of the review.

A person may only request a review of an *enforcement decision* once.

Where a statutory right of review applies

Where a statutory right of review applies, the person will be advised to follow the process available to them.

A statutory right of review applies to many enforcement decisions, including:

- The decision to issue an infringement
- The decision to serve a charge sheet or an initiating application
- The decision to issue a Building Notice or Building Order
- The decision to issue a Fire Prevention Notice
- The decision to issue a Prohibition or Improvement Notice, and
- any other decision where the enabling legislation provides for an independent review, appeal or process to challenge the decision.

If a person has a complaint about the conduct of an Authorised Officer or other Council representative, they may lodge a formal complaint in accordance with Council's Complaints Policy or contact the Victorian Ombudsman for further advice

12. RELATED POLICIES AND LEGISLATION

The following Council, State, regional and national plans and policies are relevant to this policy:

- Council Plan
- Customer Service Charter
- Complaints Policy
- Instruments of Authorisation and Delegation
- Risk Management Policy
- Risk Management Framework
- Staff Code of Conduct CEO Directive

13. POLICY REVIEW

Council may review this policy at any time and at least two years from the date of adoption.

Minor amendments to the policy may be authorised by the CEO at any time where such changes do not alter the substance of the policy (e.g. a change to the name of a related document, or a change in legislation).

14. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006 AND THE EQUAL OPPORTUNITY ACT 2010

The Council acknowledges the legal responsibility to comply with the *Charter of Human Rights and Responsibilities Act 2006* and the *Equal Opportunity Act 2010*. The *Charter of Human Rights and Responsibilities Act 2006* is designed to protect the fundamental rights and freedoms of citizens. The Charter gives legal protection to 20 fundamental human rights under four key values that include freedom, respect, equality, and dignity.