

Item No: C1018(2) Item 19

Subject: COMPLIANCE AND ENFORCEMENT POLICY AND PROTOCOL

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SUMMARY

A draft Compliance and Enforcement Policy and Protocol have been developed. The purpose of these documents are to guide Council officers responsible for unlawful activity compliance and enforcement in a manner that is accountable and transparent, consistent, proportional and timely and to assist the community in understanding its role and the role of Council in relation to unlawful activity compliance and enforcement.

This report is seeking Council's endorsement of the draft Compliance and Enforcement Policy to be placed on public exhibition for 28 days, with the results presented to Council along with a final Policy for adoption.

RECOMMENDATION

THAT:

- 1. The draft Compliance and Enforcement Policy be placed on public exhibition for a period of 28 days;**
- 2. The results of the public exhibition are presented to Council along with a final Compliance and Enforcement Policy for adoption; and**
- 3. The Compliance and Enforcement Protocol be received and noted.**

BACKGROUND

Council is responsible for unlawful activity compliance and enforcement under various legislations with delegated/authorised officers responsible for the investigation of such matters.

The NSW Ombudsman's office encourages as best practice councils to have an adopted policy which covers this area and for that policy and associated protocol to be publically available.

The intent of this policy is to establish:

- Council's compliance and enforcement principles;
- how reports alleging unlawful activity will be dealt with by Council;
- how Council's limited resources will be deployed in addressing allegations of unlawful activity;
- how confidentiality of people who report allegations of unlawful activity will be managed;
- what Council expects from people who report allegations of unlawful activity;
- what parties can expect from Council staff;
- how Council deals with complaints about Council's enforcement action; and
- how Council deals with anonymous reports.

The policy also provides advice and guidance on the role of Councillors in compliance and enforcement.

The policy and protocol are to be read together and provides a guide to officers responsible for unlawful activity compliance and enforcement to ensure that investigations are undertaken in a manner that is lawful, accountable and transparent, consistent, proportional and timely.

The protocol addresses the resource limitations in Council's compliance and enforcement activities and how such resources are to be utilised.

The protocol also outlines for the community matters to be considered at the various stages of the compliance and enforcement process from the receipt and investigation of reports alleging unlawful activity, through to what, if any, enforcement option Council will choose and whether to commence criminal or civil proceedings.

In certain circumstances Council will have shared compliance and enforcement responsibilities with other regulatory authorities. The protocol sets out a cooperative approach to such matters. Advice and guidance is also provided on the role of Council in building and construction compliance matters where there is a private certifier.

Adoption of this Policy will necessitate the rescission of the former Leichhardt and Ashfield Council policies on enforcement:

- Ashfield Council Enforcement Policy:
<https://www.innerwest.nsw.gov.au/ArticleDocuments/1444/Enforcement%20policy%20-%20Ashfield.docx.aspx>
- Leichhardt Council Compliance and Enforcement Policy:
<https://www.innerwest.nsw.gov.au/ArticleDocuments/1454/Compliance%20and%20enforcement%20policy%20-%20Leichhardt.pdf.aspx>

Marrickville Council did not have an adopted Policy on Compliance and Enforcement, rather an internal working protocol only. Hence no rescission is required.

FINANCIAL IMPLICATIONS

There are no financial implications arising from the Policy.

OTHER STAFF COMMENTS

Feedback from the following stakeholders have been received, reviewed and incorporated where appropriate in the draft Compliance and Enforcement Policy and Protocol: Council's Trees, Parks and Sportsfields Group, Council's Footpaths, Roads, Traffic and Stormwater Group, Council's Environment and Sustainability Group, Council's Integration, Customer Service and Business Excellence Group, Council's Legal, Development Assessment and Regulatory Services Group and the NSW Internal Ombudsman.

PUBLIC CONSULTATION

It is recommended that the draft Policy be placed on public exhibition for 28 days.

CONCLUSION

The purpose of draft Compliance and Enforcement Policy and Protocol are to guide Council officers responsible for unlawful activity compliance and enforcement in a manner that is accountable and transparent, consistent, proportional and timely and to assist the community in understanding its role and the role of Council in relation to unlawful activity compliance and enforcement.

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ATTACHMENTS

1. [Download](#) Draft Compliance and Enforcement Policy
2. [Download](#) Draft Compliance and Enforcement Protocol