



Regulatory Services Enforcement Policy 306

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1. Scope

This Policy applies to the investigation and enforcement of identified unlawful activity or failure to comply with terms or conditions of approvals, licences and orders. While it is primarily directed at the regulation of development activity, the Policy may also be applied to other matters such as pollution control, regulation of parking and animal control, where applicable.

This Policy applies to Council staff, elected Council and any members of the public who are subject to a provision of this Policy.

2. Purpose

This Policy establishes clear protocols for the exercise of the City's discretion in the context of both proactive regulatory action taken and the investigation and pursuit of complaints relating to allegations of unlawful activity.

The Policy provides a legal and administrative framework to assist Council in making decisions in its enforcement functions and ensures that the enforcement process is conducted in a timely and efficient manner.

The Policy provides information on:

- How staff assess whether complaints alleging unlawful activity require investigation;
- Options available to Council when dealing with unlawful activity; and
- Assisting staff to determine whether enforcement action is warranted and if so what type of enforcement action should be taken relevant to the particular circumstances.

In addition, it provides information to the public about Council's role and Policy on enforcement.

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3. Policy

3.1 Council position

The City of Parramatta is an enforcement authority under an extensive range of legislation. Council staff respond to numerous complaints and allegations of unlawful activity associated with legislative controls administered by Council. Council undertakes proactive measures to identify illegal and unlawful activities through routine and programmed inspections.

Council has a clear obligation to investigate and properly record all complaints. The Policy provides clear guidelines for an effective complaint handling system that allows staff to deal with complaints consistently and effectively, providing a clear and transparent decision making process.

Council is strongly opposed to unlawful activity at any time or under any circumstance.

Council will initiate the appropriate enforcement action in accordance with this Policy. The types of enforcement activity may be; taking no formal action, issuing warnings, providing an educational role, instigating criminal or civil legal action.

3.2 Roles and Responsibilities of Councillors and Staff in Relation to Unlawful Activity

3.2.1 Elected Council

Council's Code of Conduct sets the standard of conduct that is required of Councillors in the exercise of the above described roles. In particular, with respect to any suspected unlawful activity, Councillors must not:

- Direct Council staff other than by giving appropriate direction to the CEO in the performance of Council's functions by way of council or committee resolution or by the Mayor or Administrator exercising their power under section 226 Local Government Act 1993;
- Direct or influence or attempt to direct or influence Council staff at any public or private forum;
- Contact a member of Council staff on Council related business unless in

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accordance with the Policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the CEO; and

- Contact or issue instructions to any of Council's contractors or tenderers, including Council's legal advisers, unless by the Mayor or Administrator exercising their power under section 226 of the Local Government Act 1993.

3.2.2 Council Authorised Officers

The Chief Executive Officer is responsible for ensuring this Policy is enacted.

The Manager Regulatory Services is responsible to ensure Council Authorised Officers are appropriately carrying out their legislative responsibilities in accordance with this Policy.

All Council staff who deal with unlawful activity are responsible for:

- Implementing this Policy.
- Complying with Council's Code of Conduct
- Applying the principles of procedural fairness at all times
- Always acting within delegations
- Keeping a full and complete record of their actions, including reasons for decisions made in relation to an investigation. The records shall be made in Council computerised record management system.
- Using discretion in an appropriate manner.

3.3 Application of Policy

3.3.1 General

This Policy applies to all compliance and enforcement functions associated with unlawful activity within the City of Parramatta Local Government Area for which Council is the Appropriate Regulatory Authority (ARA).

For the avoidance of doubt, this is not a local orders Policy for the purpose of section 159 of the Local Government Act 1993.

Unless specified in the dictionary within this Policy, all terms used have the same meaning as in the Interpretations Act 1987 and the relevant Acts, Regulations, Environmental Planning Instruments for which Council is the ARA.

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Whilst it is intended that the principles in this Policy will have general application, there may be cases where the particular circumstances justify departure from these principles. Any departures will be subject to the authorisation of the Manager, Regulatory Services.

3.3.2 Identifying Unlawful Activities

Council becomes aware of unlawful activities in a variety of ways, including but not limited to requests from members of the public, customers or dealing with matters as part of Council's general regulatory roles. These roles include proactive measures, acting as the Principal Certifying Authority for development and building works, development enforcement, environmental protection, public health, parking enforcement and any other roles carried out by Council.

Council officers who are not involved directly in enforcement matters may also commonly identify potential unlawful activities and report them for investigation and action pursuant to this Policy. Nevertheless, not all offences are readily discernible and early detection can only be achieved with support and direct advice from our community. As a result of identifying breaches Council officers may initiate a range of actions including but not limited to education, enforcement or legal action in accordance with this Policy and their delegations.

3.3.3 Submitting Complaints or Service Requests

Complaints or service requests alleging unlawful activity can be submitted to Council in writing, verbally or electronically. In all cases the allegation will be recorded in Council's computerised customer service request management (CRM) system and will be allocated a unique reference number.

Anonymous complaints will be accepted and reviewed against the below criteria to determine if the matter requires investigation.

- The seriousness of the complaint issue/s, and whether the complaint is more an inquiry than occurring issue;
- There is sufficient relevant information received to actually investigate the complaint;
- When the unlawful activity was carried out and for how long, including whether the breach is continuing or committed some time ago;
- The harm or potential harm to the environment or public health, safety or

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amenity caused by the unlawful activity;

- The need for general and specific deterrence;
- It is in the public interest.

The request will be referred to the relevant Council officer to commence any necessary investigation.

Council officers may not investigate complaints where determined by management that:

- The matter has already been investigated and resolved or it has been determined that no further action will be taken in the absence of new information;
- Council has no jurisdiction to investigate the complaint, i.e. dividing fences matters, private strata matters.
- The activity alleged to be unlawful is in fact determined to be lawful.
- The complaint is frivolous, vexatious or trivial in nature.
- Council is not the appropriate regulatory authority.

If a decision is made to investigate a complaint, the service request/investigation will be given a priority based on the following table.

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1	Insignificant	Administration risk - Almost certain to occur in all circumstances	No threat to health and safety or environment, only minor inconvenience to neighbours or public. No reputational threat. Can be dealt with by issuing a caution or PIN	Parking, old unauthorised work, minor unauthorised work (e.g. air-conditioning units, fence etc)
2	Minor	Minimal risk - Likely to occur frequently	Minimal threat to health and safety or environment, some level of inconvenience to the neighbours or public. Minimal reputational risk. Can be dealt with by PINs or Notices and Orders	Non-threatening pollution incidents (air, noise, water), minor non-compliance with DA conditions
3	Moderate	Medium risk, possible to occur at some stage	Moderate risk to health and safety, significant inconvenience to neighbours and/or public. Possible reputational risk extenuating circumstances. Can be dealt with by PINs, Notices and Orders or legal proceedings.	Food safety continual non compliance, works completion with no Occupational Cert or Construction Cert
4	Major	High risk - Unlikely to happen but may occur	Significant risk to health and safety or environment. Financial penalties of >\$250k. Can be dealt with by PINs, Notices and Orders or legal proceedings	Building non compliance to DA (exc minimal extensions such as pagolas), non friable asbestos contamination (not yet removed)
5	Catastrophic	May occur only in rare and exceptional circumstances	Major risk of health and safety or the environment - Permanent disabling injury, Financial penalties >\$1m. Reputational risk to Council. Can be dealt with by PINs, Notices and Orders or legal proceedings. May require emergency orders.	Swimming pool legislation non compliance, Fire safety, Building non compliance to DA resulting in major risk to public health and safety, friable asbestos contamination.

Complaints received by Council will be assessed and where required investigated in an order of risk priority. Complaints with a higher priority of potential risk will be given preference over lower priority matters when complaint volumes are high.

If the situation in relation to a complaint changes throughout the investigation, Council may alter the complaint's priority.

If a decision is made not to investigate a complaint, this decision must be recorded along with the reasons for that decision. Council officers must notify the complainant of the outcome of Council's investigation.

The name, address and contact details of the person reporting the complaint will also be recorded within the secured CRM System. This information is critical as Council may need to rely on evidence from the complainant to prove any alleged offence and commence enforcement action.

3.3.4 Protecting the Privacy of Complainants

Council will take all reasonable measures to protect the privacy of the person submitting the complaint and generally information on this person will not be

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released. However, Council may be required to disclose this information in a variety of circumstances including the following:

- Access to the information is permitted under legislation, including GIPA or the LGA;
- Access to the information is permitted under another Council Policy;
- Legal proceedings are commenced and the information is disclosed in evidence served; and
- The nature of the allegation otherwise makes it a necessity.

Council will advise any known complainants of the action, if any, taken or the reasons why no action was taken in the circumstances.

3.3.5 Procedural fairness and natural justice

There is an overriding duty on the Council to act fairly and ensure the principles of procedural fairness and natural justice are adhered to. In this regard Council will:

- Provide information on the substance of the complaint to the alleged offender. This may not occur until an appropriate stage in the investigation;
- Provide an opportunity for the alleged offender to put their case. This will not be necessary if there is a serious risk to personal or public safety, risk of serious environmental harm or for parking and road related matters;
- Consider any submission put forward by the parties to the matter;
- Make reasonable inquiries or investigations before making a decision;
- Ensure no person decides a case in which they have an interest;
- Otherwise act fairly and without bias; and
- Act within statutory time frames.

3.3.6 Options for Dealing with Unlawful Activity

Council has discretion in deciding whether to take enforcement action on the basis of the available evidence and the circumstances of the individual case. At the conclusion of an investigation, Council will determine the most appropriate course of action that may include one or more of the following options;

- a) Take no action;
- b) Counsel the alleged offender;

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- c) Issue a formal letter of warning;
- d) Negotiate an undertaking to remedy the situation;
- e) Issue a formal Notice and Order;
- f) Issuing a compliance costs notice (usually in conjunction with an order) that enables recovery of costs associated with investigating unlawful activity and achieving compliance under some legislation;
- g) Commence criminal proceedings or issue of a PIN; and
- h) Commence civil proceedings to remedy or restrain unlawful activity.

Unless urgent action is required (i.e. matters where the health and /or safety of people may be affected or serious environmental harm) a staged approach to obtain compliance will be applied to matters other than parking related offences. That is, in the first instance, offenders will be given the opportunity to discuss and remedy the breach before enforcement action is taken.

Options (a) through to (d) may be all that is required for minor breaches where no serious impacts have occurred. However, where they are ineffective, inappropriate and/or unsuccessful, alternate enforcement action may be warranted and include options (e) to (h).

When Authorised Officers seek to issue a caution or use discretion to not take enforcement action, the Authorised Officer shall consider:

- Enforcement Guidelines for NSW Councils – NSW Ombudsman – December 2015;
- NSW Department of Planning Practice Note – Exercising of Discretion;
- Caution Guidelines under the Fines Act 1996; and
- This and any subordinate Council Policy applicable.

3.3.7 When will Council Commence Enforcement Action?

Council will take enforcement action as soon practical once prima facie evidence has been established. The decision to take action will take into consideration the following points:

- The nature and seriousness of the breach;
- Balancing of public interest and the costs to Council and Community;

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- The available methods of enforcement; and
- The circumstances of each case.

3.3.8 Balancing of Public Interest and Cost to Council

Council will weigh up the public interest or benefits that will be served against the cost to the Council, and therefore to the community in taking enforcement action. In considering the 'public interest' Council will have regard to whether the unlawful activity:

- will impact on a significant number of people;
- will impact on disadvantaged or marginalised groups;
- is indicative of a systemic flaw;
- is individual in nature but often occurs;
- has attracted sustained public attention and no alternative resolution is proposed; and
- flouts Council's authority.

Council will also consider whether more effective means of rectifying an unlawful activity are available before formal legal proceedings are initiated. This may include one or a combination of the following:

- Reporting a breach to a professional association; and
- Use of statutory powers such as:
 - granting consent to a relevant application;
 - making an order under the EPAA, LGA or POEO; or
 - issuing a building certificate under the EPAA.

3.3.9 Decision for Enforcement

If formal proceedings are considered to be the best option, the decision on which to start the proceedings will be informed by considerations such as the following:

- Likely cost of proceedings;
- Prospects of recovery of those costs from the respondent or defendant;
- Remedies available;
- Available methods of enforcement; and
- Circumstances of each case.

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3.3.10 The Circumstances of Each Case

The Council will, in all prosecution and enforcement matters, consider the following;

- a) The seriousness of the breach, including whether the breach is merely technical or “trivial” in nature;
- b) When the unlawful activity was carried out and for how long, including whether the breach is continuing;
- c) The harm or potential harm to the environment, public health, safety or amenity caused by the unlawful activity;
- d) Whether development consent or other approval would have been granted by Council if the appropriate application had been submitted prior to the unlawful activity being undertaken;
- e) Whether the person(s) who committed the breach has shown contrition and, where possible, has remedied the unlawful activity;
- f) Whether the person(s) who committed the breach has made submissions to the Council that provide reasonable grounds for the Council to conclude that the person was under a genuine mistaken belief as to a relevant factual or legal matter;
- g) Whether the person(s) who committed the breach has shown deliberate or wilful conduct in their actions;
- h) Whether the person(s) who committed the breach should have been aware of their obligations because they have:
 - o particular knowledge e.g.: a builder or company that regularly carries out work and is generally aware of the relevant Council or other requirements;
 - o received a previous warning; or
 - o been subject to previous formal legal action.
- i) Whether the unlawful activity was unavoidable;
- j) The need for general and specific deterrence;
- k) Whether the breach can be easily remedied; and
- l) Such other matters that may appear to be relevant to the individual case.

When deciding whether to take enforcement action, Council officers will consider the circumstances of the case.

The specific matters for consideration are contained in Council's internal assessment forms and include:

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- i. Has council created an estoppel situation?
- ii. Is the breach a technical breach only?
- iii. When was the unlawful works carried out?
- iv. How has the unlawful activity affected the natural and built environment and health, safety and amenity of the area?
- v. Would consent have been given if it had been sought?
- vi. Can the breach be easily remedied?
- vii. Does the person in breach show contrition?
- viii. Are there any particular circumstances of hardship affecting the complainant or the person the subject of the complaint?
- ix. Has the person the subject of the complaint received a previous warning or other non-coercive approach or has formal legal action been taken?
- x. Would an educative approach be more appropriate than a coercive approach?
- xi. What are the costs and benefits of taking enforcement action as opposed to taking informal or no action?
- xii. What are the chances of success if the proposed enforcement action was challenged in court?
- xiii. Is there a draft planning instrument on exhibition that would make the unauthorised use legal?
- xiv. What action would be reasonable and proportionate in this case?
- xv. What would be in the public interest?

Prior to taking enforcement action, staff should always turn their mind to the criteria outlined above in undertaking an objective consideration of the evidence that has been gathered during the course of their investigation.

Staff must never allow their actions to be used purely to pursue the agendas of external parties or interest groups.

Enforcement action should never be undertaken by staff purely as a means of appeasing a virulent complainant in circumstances where the application of the criteria in this Enforcement Policy would otherwise indicate that enforcement action should not be taken.

3.4 Deciding on the method of enforcement

3.4.1 Enforcement action

When deciding on the method of enforcement, it is necessary to consider the principles explained above in Section 3.3.6 – ‘Options for Dealing with Unlawful Activity’ and the outcome being sought.

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There are two main types of enforcement action, Criminal and Civil:

a) Criminal Proceedings include:

- Issuing a PIN;
- Prosecuting the offence in the Local Court by issuing a Court Attendance Notice (CAN); and
- Prosecuting the offence in the Land & Environment Court in its summary jurisdiction (Class 5)

b) Civil Proceedings include:

- Notices and orders issued by Council pursuant to various legislation;
- Class 4 proceedings before the Land & Environment Court, seeking an order of the Court to remedy or restrain a breach of the EPAA (Section 123), the LGA (Section 673), the POEO (Sections 252 & 253), or any other Act, if the breach is causing or is likely to cause harm to the environment; and
- Interlocutory relief for matters causing, or with the reasonable potential to cause, serious environmental harm. In such proceedings it is likely the Council would be required to provide an undertaking as to damages.

3.4.2 PINs

Penalty infringement notices (PINs) are a way of imposing a fine on a person who an Authorised Officer believes is guilty of an offence without commencing criminal proceedings against them. Generally, penalty notices are appropriate where:

- The breach is not serious or ongoing, the degree of harm is low;
- The facts appear incontrovertible;
- The imposition of the penalty is likely to provide a practical and viable deterrent; and
- There are no aggravating factors.

Authorised Officers can issue PINs in accordance with their statutory responsibilities and delegations, this Policy and any guidelines or operating procedures put in place by the manager of the relevant unit.

PINs are not appropriate where the breach is on-going or where the prescribed penalty is not adequate to address the severity of the offence. For example, repeated issuing of PINs is not appropriate where there have been ongoing

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instances of unauthorised activity such as out of hours trading. Council staff should also consider whether it is appropriate to issue a formal caution as an alternative to issuing a penalty notice in appropriate circumstances and in accordance with the Attorney-General's Caution Guidelines.

Where an authorised officer proposes (after conducting an investigation of a complaint and assessing the circumstances of the matter in accordance with the criteria outlined above) to issue a PIN, the issue of that notice should only be in circumstances where the authorised officer is satisfied that there is sufficient evidence to establish that the offence was committed.

PINs should be issued as soon as possible after the conclusion of an investigation and may be used in conjunction with other enforcement action, as permitted by the applicable legislation.

3.4.3 Consents, Orders and Building Certificates

Council recognises that a person who may have carried out unlawful works may apply for a Building Certificate under S149D of the EPAA to formalise the unlawful work. However, such applications should not be encouraged to justify unlawful works.

Consideration will be given to whether a breach can be rectified by a consent or building certificate or whether enforcement can occur by way of an order under the EPAA, LGA, POEO or some similar means.

Given the impact that unauthorised work can have on the neighbouring properties, environment, landscape, streetscape etc., the Regulatory Services Unit must seek planning input regarding the use of the unauthorised work before taking appropriate action to allow for a proper planning assessment to be carried out. Similarly, planning advice must be sought during the assessment phase of every building certificate application. Council's Development and Traffic Services Unit has discretion in deciding if a development application is required or not for the use associated with the unauthorised work however, the decision along with any reasons leading to it, must be communicated in writing to the Regulatory Services Unit. Regulatory Services must include any such advice in their reasons for granting or refusing a building certificate application as well as any regulatory action that may be taken.

For the purpose of deterring unauthorised work within the City of Parramatta Local

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Government Area, in cases where it is determined that a development consent is not required for an unauthorised work but a building certificate is still required, council will charge the full fee as it would have been charged if the work would have been subject to a development consent including any fees associated with the issuing of a construction certificate.

The Orders provisions of the EPAA, LGA and POEO are described as “self-help” provisions that provide Council with a formal cost effective mechanism to direct land owners and occupiers to do or refrain from doing something. They generally operate on the ‘principles of natural justice’ and, where appropriate, should be used prior to the commencement of civil proceedings in the Land & Environment Court.

Irrespective of whether or not a Building Certificate is applied for, Council may take action against a person who carried out unlawful work. Such action may include the issue of a PIN or in conjunction with criminal proceedings, where it is considered appropriate and necessary for punitive action to also be taken, having regard to the restrictions provided under Section 127(7) of the EPAA.

3.4.4 Land & Environment Court Proceedings

Council will give preference to civil proceedings in the Land & Environment Court over criminal prosecution in either the Local Court or the Land & Environment Court where Council requires the offender to do or refrain from doing something, such as comply with a development consent or demolish unauthorised works.

Generally civil proceedings will be preceded by formal notices and/or orders, unless the circumstances warrant the immediate commencement of court proceedings.

The following matters will be considered in determining whether to commence civil or criminal proceedings in the Land and Environment Court:

- Is there a liable Respondent?
- Does Council have sufficient evidence to prove its case either on the "balance of probabilities" (civil) or "beyond reasonable doubt" (criminal)?
- Does Council require an Order from the Court restraining the respondent from doing something or ordering the respondent to remedy the breach?
- Is an injunction required because the unlawful activity is causing serious, or

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has the potential to cause, serious environmental harm?

- Is the matter urgent?
- The severity of the offence;
- Is the respondent a repeat offender?
- The cost of proceedings; and
- Does the development breach non-standard conditions of consent?

3.4.5 Local Court Proceedings

The following matters will be considered in determining whether to commence criminal proceedings in the Local Court:

- Is there a liable defendant?
- Is a monetary penalty all that is required?
- Does Council have sufficient evidence to prove its case "beyond reasonable doubt"?
- Are works proceeding - (is a Court Attendance Notice needed)?
- The severity of the offence;
- Is the defendant a repeat offender? and
- The cost of proceedings

3.5 RECOVERY OF LEGAL COSTS

Council will recover cost where available through legislation requirements such as under the POEO for clean-up notice including administrative charges and the EPAA for investigation of complaints.

The Council's Policy for recovery of its costs in the Land and Environment Court is:

- That the Council will seek to recover its fair and reasonable costs in all matters where costs are recoverable, either by consent or by order of the court;
- The Council will seek to recover the penalty imposed by the court where such penalty is imposed; and
- The Council will adopt the recommendations of its solicitors to accept a lesser amount than the full legal costs incurred by the Council if, in the circumstances, the acceptance of such an offer will result in the Council not incurring further and unnecessary legal costs.

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The Council's Policy for recovery of costs in the Local Court is:

- That the Council will seek to recover its fair and reasonable costs in all matters where costs are recoverable, either by consent or by order of the court; and
- The Council will seek to recover the penalty imposed by the court where such penalty is imposed.

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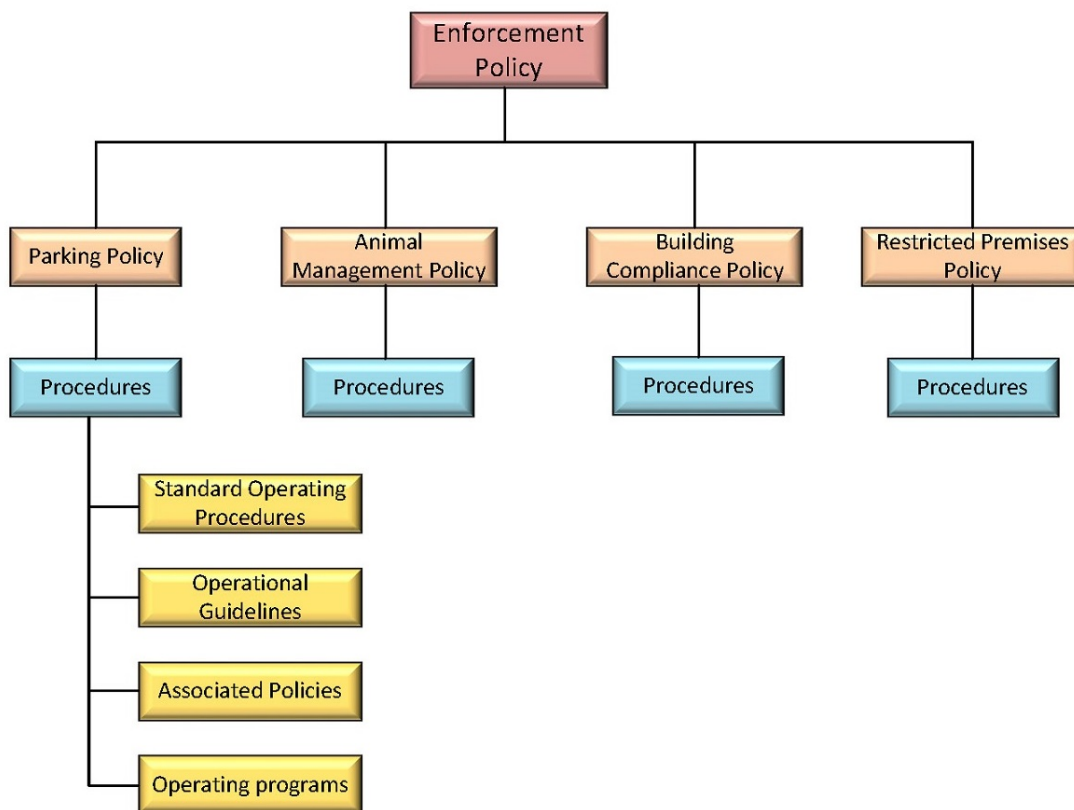


3.6 Administration

This Policy is based on the 'Model Policy' developed by the NSW Ombudsman and shall be read in conjunction with all relevant Council policies.

As legislation changes and issues arise policies and procedures will be developed to assist Council in managing the roles and responsibilities within the Regulatory Service Unit

Enforcement Policies Hierarchy



4. Legislation

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The following Acts and Regulations are the guiding legislation for regulatory matters. They include but are not limited to:

Boarding Houses Act 2012 and related Regulations
Building Professionals Act 2005
Companion Animals Act 1998 and related Regulations
Contaminated Land Management Act 1997 and related Regulations
Environmental Planning & Assessment Act 1979 and related Regulations
Fines Act 1996 and related Regulations
Food Act 2003 and related Regulations
Impounding Act 1993 and related Regulations
Local Government Act 1993 and related Regulations
Noxious Weeds Act 1993 and related Regulations
Privacy and Personal Information Protection Act 1998 and related Regulations
Protection of Environment Operations Act 1997 and related Regulations
Public Health Act 2010] and related Regulations
Roads Act 1993 and related Regulations
Roads Transport Act 2013 and related Regulations
Rural Fires Act 1997 and related Regulations
Swimming Pool Act 1992 and related Regulations

5. Definitions

The following defined terms are used in this Policy:

Action

Means an action taken by a Council staff for the purpose of a service request. Examples of actions that could be taken are:

- Calling a customer to obtain further information,
- Carrying out a site inspection,
- Issuing a Notice, Order or PIN etc.

Authorised Officer

A City of Parramatta staff member with delegated authority under a particular legislation to take certain actions. All Council officers that carry out inspections land for regulatory purposes will:

- Have delegation to enter premises and carry out investigations as specified in Council's Instrument of Delegations and sub delegations;

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- Carry photographic identification demonstrating authorisation to enter premises and private lands under each specific Act;

Court Attendance Notice (CAN)

Means a court attendance notice issued and filed in accordance with the Criminal Procedure Act 1986. A CAN may be used to commence summary proceedings in the local court. A CAN specifies the offence and its essential particulars as well as the address of the court where the matter is to be heard. If a person does not attend court on the day specified in a CAN, a warrant may be issued for the arrest of the person or the matter may be dealt with in the absence of the person.

Civil Proceedings

Civil Proceeds include:

- Notices and orders issued by Council pursuant to various legislation;
- Class 4 proceedings before the Land & Environment Court, seeking an order of the Court to remedy or strain a breach of the EPAA (Section 123), the LGA (Section 673), the POEO (Sections 252 & 253), or any other Act, if the breach is causing or is likely to cause harm to the environment; and
- Interlocutory relief for matters causing, or with the reasonable potential to cause, serious environmental harm. In such proceedings it is likely the Council would be required to provide an undertaking as to damages.

Criminal Proceedings

Criminal proceedings include:

- Issuing a PIN;
- Prosecuting the offence in the Local Court by issuing a CAN; and
- Prosecuting the offence in the Land & Environment Court in its summary jurisdiction (Class 5)

Defendant

Means the accused person against whom criminal proceedings are brought.

EPAA

Means the *Environmental Planning and Assessment Act 1979*.

Frivolous

Means a matter or action lacking in seriousness, of little weight or importance or having no sound basis (as in fact or law).

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Amendment 2	Date of Next Review: 2020	Review period: every 3 years



CITY OF PARRAMATTA

Means *Government Information Public Access Act 2009*.

LGA

Means the *Local Government Act 1993*.

Offender

Means a person that does or it is alleged to have done something wrong, causes problems or commits or it is alleged to have committed an illegal act.

Penalty Infringement Notice (PIN)

An infringement notice is a ticket issued either 'on the spot' or sent via email or post for offences such as speeding, unauthorised work, unauthorised use or any other breaches of the legislation. The infringement notice may only be issued for prescribed offences and the value of the fine is also prescribed by legislation.

The infringement notice contains information about the alleged offence and fine amount

POEO

Means the *Protection of the Environment Operations Act 1997*.

Respondent

Means the party against whom civil proceedings are brought in Land & Environment Court proceedings.

Serious environmental harm

Means:

- environmental harm involving actual or potential harm to the health or safety of human beings that is of high impact or on a wide scale, or
- other actual or potential environmental harm (not being merely an environmental nuisance) that is of high impact or on a wide scale, or
- environmental harm resulting in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$50,000.

Trivial

Means of little value or importance.

Unlawful activity

Regulatory Services Enforcement		
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Means any activity or work that has been or is being carried out;

- contrary to a legislative provision regulating a particular activity or work;
- contrary to an environmental planning instrument that regulates the activities or work that can be carried out on particular land;
- without a required development consent, approval, permission, direction, permit or licence; and/or
- contrary to the terms or conditions of a development consent, approval, permit or licence.

Vexatious

Means causing or intending to cause annoyance, frustration, worry or stress.

Authorisation

Adopted by Council 27 April 2010 Minute Number 11420

Review

This Policy will be reviewed every 3 years

Version	Date Adopted	Date Superseded
1	27 April 2010	
2	April 2017	

Owner

Manager Regulatory Services

Regulatory Services Enforcement		
Owner Manager Regulatory Services	Area: Regulatory Services	POL No: 306
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