

This submission is in response to the Petition, Attachment 1, calling for a review of [Council's Compliance and Enforcement Policy \(CP-114\)](#) as added to the meeting agenda published November 17, 2023.

We ask Council to reject and replace the Officer's recommendation, in-line with section 6.11 (3)(b) of [City's Meeting Procedures Local Law](#), with one to the effect of:

"Refer it to the Governance Committee for consideration and a preparation of a report for consideration by Council at the February 2024 Ordinary Meeting of Council."

We do not believe it is appropriate for the CEO and the City officers to take charge of reviewing and recommending improvements to the Compliance and Enforcement Policy. We believe the Governance Committee should drive any review and recommendations in relation to this important Council Policy, consistent with its [Charter](#), Attachment 4.

The objective of the **Governance Committees is to ensure that appropriate standards are applied by the Elected Members of the Council and its various Committees as well as the Officers of the Council when performing the functions delegated to them**, assigned tasks and duties include:

- Ensuring there are effective decision-making processes in place that reflect the transparency and accountability principles which underpin excellence in governance;
- Ensuring that effective delegations are implemented and maintained; and
- Ensuring that there is an active organisational performance management system in place that enables Elected Members and Officers to be openly accountable for their performance.

The Compliance and Enforcement Policy reflects Council's guidance with respect to how and when the CEO and other officers execute the powers and duties Council has delegated to them to enforce of the laws including in relation to Health, Food, Dogs, Cats, Bush Fires, Planning & Development, Building, Litter, Parking, as outlined in [Council's Statutory Delegations and Authorisation Manual](#).

In a number of instances City officers have failed to exercise their delegated authorities appropriately and at times have caused many residents detriment, including psychosocial harm. Council needs to do better at ensuring laws are enforced in an objective and impartial manner in-order to protect the community and individual residents by providing much clearer guidance to its CEO, by better reporting to Council on compliance enforcement activities and introducing formal rights of Council review for complainant should City officers refuse to take enforcement actions.

Dr Stevens' Petition reflects just one instance. Dr Stevens continues to suffer detriment because City officers have refused to take appropriate enforcement action against his neighbor for building part of a retaining wall encroaching onto his land without his consent. Retaining walls matters fall within Council's remit as the primary Building compliance enforcement agency, not the Magistrates Court.

Dr Stevens is pointing to the Shire of Serpentine-Jarrahdale (S-J) Council's General Compliance and Enforcement Policy as an example of a good policy, Attachment 3. You will see the S-J Policy Appendix 1 considers any encroachments outside of works land (a breach of s 76 of the Building Act) as a major offence, that is:

"a breach of legislation that significantly impacts or risks the health and safety of the community, a community member, or the environment. It may also be a case whether the issue cannot be resolved in a relatively short timeframe or where the alleged offender is not willing to cooperate or negotiate to achieve compliance."

Council not only has the power to issue building orders to have Dr Stevens' neighbor remove the unauthorised encroachment (DA-128), but it can also prosecute the neighbor for a breach of the Building Act (DA-105), Attachment 2.

Parliament introduced Part 6 of the Building Act into the 2011 legislation with the specific intention of protecting individual property owners from the adverse affects of building work undertaken on adjoining properties. The Objectives of the Building Act were outlined to [Parliament in April 2011](#):

*“The Building Bill [Act] will clarify issues related to construction on boundaries that have caused anxiety and uncertainty for many years. The Dividing Fences Act provides a mechanism for seeking a contribution to the cost of building or maintaining a dividing fence, but does not specify construction standards or processes. **The bill has been drafted to align with that act and reinforce the principle that a person’s home is their castle and that other people must get permission to intrude, be they workmen seeking easy access to work on a neighbour’s building or encroachment on the building itself.** If permission is refused, a builder can seek a court order to get access, but cannot just march in. There are clear rules dealing with removal of fences, protection of adjoining buildings during construction, jointly owned walls, and quality of construction along boundary lines. Local governments are given effective powers to intervene when a builder does the wrong thing.”*

“The bill [Act] continues the role of local governments and other permit authorities in enforcing compliance with building standards and processes. A local government will monitor building activity in its area and can give notices requiring owners to improve, obtain approval for, or demolish unsafe or unauthorised buildings. The permit authority for a building will be able to inspect at any time and require compliance with certified plans. The bill provides a range of enforcement options, including infringement notices, improvement notices and prosecution for noncompliance. If dangerous situations are not being dealt with, the permit authority can take action itself and recover the costs from the owner or builder. I commend the bill to the house.”

The City’s Director Planning, Mr Peter Varelis, has refused numerous requests to take enforcement action to address Dr Stevens’ complaints with the City arguing:

“The City undertakes enforcement actions on behalf of and in the interests of the community as a whole, not in pursuit of the interests or benefit of any individual or group.” (response to Dr Stevens public questions at [18 July 2023 Council meeting](#), amongst others)

This argument is at odds and with the Shire of S-J’s Compliance Policy and directly contradicts the objectives of Part 6 of the Building Act 2011: Work affecting other land, especially section 76: No encroachment without consent, court order or other authority.

Council needs to improve its Compliance and Enforcement Policy to ensure residents like Dr Stevens do not suffer detriment because City officers fail to take appropriate compliance enforcement actions.

Attachments

1. Petition as included in Council’s November 21, 2023 meeting agenda.
2. City of Melville Statutory Delegations by Council
 - a. DA-105 Prosecutions and Legal Proceedings – Building Matters
 - b. DA-128 Building Orders
3. The Shire of Serpentine-Jarrahdale Council’s General Compliance and Enforcement Policy
4. City of Melville Council Governance Committee Charter

12.4 Petition - CP-114 Compliance & Enforcement Policy Review

A petition signed by 37 residents of the City of Melville was submitted by Mr J Stevens of Bicton on Monday, 6 November 2023. The petition reads as follows:

“We, the undersigned, all being electors of the City of Melville, respectfully ask Council to upgrade its Compliance and Enforcement Policy (CP-114) to bring it more into line with similar policies of other Councils and community expectations by providing much better guidance to the Chief Executive Officer in relation to the City’s compliance and enforcement activities. The Shire of Serpentine-Jarrahdale Council’s General Compliance and Enforcement Policy Appendix 1 provides good guidance on when and how City officers should act when non-compliances are identified, including among other things, how and when officers exercise Council’s Building Act 2011 powers and duties with respect to adversely affected individual adjoining property owners.”

OFFICER RECOMMENDATION

That the Council acknowledged the petition and direct that a report on the matters raised be prepared for consideration by Council at the February 2024 Ordinary Meeting of Council.

Part 2 - Register of Statutory Delegations by Council

DA-105 Prosecutions and Legal Proceedings – Building Matters

Delegator: Council as permit authority Process Owner: Director Planning		Delegation: DA – 105 Last Review Date: 20 June 2023
Description	Authority to commence and have the carriage and conduct of legal proceedings and other matters pursuant to the <i>Building Act 2011</i> and <i>Building Regulations 2012</i> and exercise the powers set out in section 133.	
Statutory Power or Duty Delegated	<i>Building Act 2011</i> Section 133(1)(b): Prosecutions may be commenced by a local government or a person authorised to do so by the local government	
Statutory Power to Delegate	<i>Building Act 2011</i> Section 127(1): A local government may delegate any of its powers or duties as a permit authority Section 127(3): A local government may only delegate its powers or duties to a local government employee	
Delegated to	Chief Executive Officer	
Statutory Power to sub delegate:	<i>Building Act 2011</i> Section 127(6A): CEO of a local government may delegate to any other local government employee a power or duty that has been delegated to the CEO	
Sub Delegated to:	<ul style="list-style-type: none"> • Director Corporate Services • Director Planning • Manager Building and Environmental Health Services • Building Compliance Officer 	
Conditions on Delegation/Sub Delegation	None	
Compliance links	<i>Building Act 2011</i> Part 12 Legal Proceedings	
Policy Reference	Building Compliance Work Instruction CP-114 Compliance and Enforcement Policy Compliance and Enforcement Guideline	
Recordkeeping	Records of exercise of delegated authority and associated contracts to be retained in ECM index: COUNCIL ADMINISTRATION – Delegated Authority – Exercises 5.119 P PLANNING AND DEVELOPMENT – Building Inspections – prosecutions, notices, complaints, demolition 20.69 10D	
Period of Validity	Ongoing	
Adopted by Council	Ordinary Meeting of Council – 21 May 2013 – C13/5291	
Substantive Amendments	Ordinary Meeting of Council – 16 June 2020 – M20/5749 Amended to remove redundant matters and provide for authorising a person to commence prosecution in accordance with section 133. Ordinary Meeting of Council – 15 June 2021 – M21/5842 Approved sub-delegation to Building Compliance Officer.	

DA-128 Building Orders

Delegator: Council as permit authority		Delegation: DA – 128	
Process Owner: Director Planning		Last Review Date: 20 June 2023	
Description	<ol style="list-style-type: none"> 1. Authority to issue building orders, give notice of a building order, revoke a building order and give notice to that effect; and 2. In the event of non-compliance with a building order, cause an authorised person to take any action, or commence or complete any work, specified in the order or to take reasonable steps to cause specified action to cease, and recover the reasonable costs in giving effect to the building order. 		
Statutory Power or Duty Delegated	<i>Building Act 2011</i> <u>Section 110(1)</u> : Building orders <u>Section 111</u> : Notice of proposed building order <u>Section 117</u> : Revocation of building order <u>Section 118</u> : Give effect to building order if non-compliance <u>Section 88(3)</u> : Specify the finish of a close wall in a building order		
Statutory Power to Delegate	<i>Building Act 2011</i> <u>Section 127(1)</u> : A local government may delegate any of its powers or duties as a permit authority <u>Section 127(3)</u> : A local government may only delegate its powers or duties to a local government employee		
Delegated to	Chief Executive Officer		
Statutory Power to sub delegate:	<i>Building Act 2011</i> <u>Section 127(6A)</u> : CEO of a local government may delegate to any other local government employee a power or duty that has been delegated to the CEO		
Sub Delegated to:	<ul style="list-style-type: none"> • Manager Building and Environmental Health Services • Building Services Coordinator • Senior Building Surveyor 		
Conditions on Delegation/Sub Delegation	The Senior Building Surveyor is delegated the power to give notice of a building order only (section 111).		
Compliance links	<i>Building Act 2011</i> , Part 8, Division 5		
Policy Reference	CP-114 Compliance and Enforcement Policy Compliance and Enforcement Guideline		
Recordkeeping	Records of exercise of delegated authority and associated contracts to be retained in ECM index: COUNCIL ADMINISTRATION – Delegated Authority – Exercises 5.119 P PLANNING & DEVELOPMENT – Building & Planning Compliance 20.107 5A		
Period of Validity	Ongoing		
Adopted by Council	Special Meeting of Council – 27 March 2012 – P12/3298		
Substantive Amendments	Ordinary Meeting of Council – 16 June 2020 – M20/5749 Amended to incorporate delegations recorded in instruments DA-097, DA-099, DA-100, DA-101, DA-102.		



Council Policy – General Compliance and Enforcement

Responsible Directorate	Development Services
Responsible Business Unit/s	Planning and Compliance Health and Building Emergency Services and Community Safety
Responsible Officer	Director Development Services
Affected Business Units	Planning and Compliance Health and Building Emergency Services and Community Safety

Objective

- Ensure a consistent approach in enforcement and compliance related matters;
- Provide transparency, apply procedural fairness and natural justice for all enforcement and compliance related matters;
- Provide an educational, cooperative and collaborative process towards compliance and enforcement, aimed at encouraging compliance; and
- To guide decision making and actions by the Shire in the consistent use of enforcement options commensurate with the risk.

Scope

To assist the Shire to use compliance and enforcement strategies to achieve legislated objectives and encourage compliance by implementing a cooperative and collaborative approach to enforcement action.

1 Policy

1.1 Introduction

The scope of this policy is to set out the Shire's approach to compliance and enforcement related matters. The policy provides a range of prescribed compliance and enforcement options for dealing with compliance matters. The policy also aims to ensure consistency in how the Shire makes decisions on enforcement action.

2. Legislation Enforced by Shire

This Policy applies to all compliance and enforcement actions where the Shire has a regulatory responsibility under State and Local Laws.

Departments within the Shire which may enforce legislation:

Building Services	<i>Building Act 2011 and Building Regulations 2012 Caravan Parks and Camping Grounds Act 1995 and Regulations Local Government Act 1995</i>
Statutory Enforcement (Planning Compliance) Services	<i>Building Act 2011 and Building Regulations 2012 Caravan Parks and Camping Grounds Act 1995 and Regulations Graffiti Vandalism Act 2016 Local Government Act 1995 and Regulations Planning and Development Act 2005 and Regulations Shire of Serpentine Jarrahdale Local Laws (as amended)</i>



Council Policy – General Compliance and Enforcement

Environmental Health Services	<i>Caravan Parks and Camping Grounds Act 1995 and Regulations</i> <i>Environmental Protection Act 1986 (Public Health component only)</i> <i>Environmental Protection (Noise) Regulations 1997</i> <i>Environmental Protection (Unauthorised Discharge) Regulations 2004</i> <i>Food Act 2008 and Regulations</i> <i>Health (Miscellaneous Provisions) Act 1911</i> <i>Local Government Act 1995 and Regulations</i> <i>Public Health Act 2016 and Regulations</i> <i>Shire of Serpentine Jarrahdale Local Laws (as amended)</i>
Engineering Services	<i>Local Government Act 1995 and Regulations</i> <i>Planning and Development Act 2005</i> <i>Shire of Serpentine Jarrahdale Local Laws (as amended)</i>
Ranger Services	<i>Bushfires Act 1954 and Regulations</i> <i>Cat Act 2011 and Regulations</i> <i>Control of Vehicles (Off Road Areas) Act 1978 and Regulations</i> <i>Dog Act 1976 and Regulations</i> <i>Graffiti Vandalism Act 2016</i> <i>Litter Act 1979 and Regulations</i> <i>Local Government Act 1995 and Regulations</i> <i>Local Government (Miscellaneous Provisions) Act 1960</i> <i>Shire of Serpentine Jarrahdale Local Laws (as amended)</i> <i>Local Government (Administration) Regulations 1996</i> <i>Local Government (Parking for People with Disabilities) Regulations 2014</i> <i>Local Government (Uniform Local Provisions) Regulations 2014</i>
Emergency Services	<i>Bush Fires Act 1954 and Regulations</i> <i>Bush Fires (Infringements) Regulations 1978</i> <i>Emergency Management Act 2005 and Regulations</i> <i>Local Government Act 1995 and Regulations</i>
Environmental and Sustainability Services	<i>Cemetery Act 1986</i> <i>Planning and Development Act 2005</i> <i>Shire of Serpentine Jarrahdale Local Laws (as amended)</i>

3. Lodging a complaint

Where a complaint relates to a breach in legislation, for which the Shire is responsible for administrating the complaint shall be made in writing and include:

- (a) name and address, telephone number, and email address of the complainant;
- (b) address of the offending property; and
- (c) details of the alleged offence.

The Shire may consider verbal complaints received on a case by case basis and in accordance with the Compliance and Enforcement Matrix (Appendix 1).

The Shire will endeavour to keep complaints confidential however the Shire notes that Freedom of Information applications may be made in accordance with the *Freedom of Information Act 1992* and will be assessed based on their individual merits.

4. Principles of Compliance and Enforcement Action

The Shire is required to administer its statutory responsibilities under the applicable legislation in a transparent and fair manner in the interest of public health, safety, and amenity. Each compliance investigation undertaken by the Shire will be assessed on a case-by-case basis, and actioned according to the Compliance and Enforcement Matrix (included as an appendix) for each business unit area.



The Compliance and Enforcement Matrix is used as a guide only and an offence category can be reviewed during the investigation process.

5. Community engagement

- Information available on Shire website in relation to compliance requirements;
- Update compliance Policy and Procedures; and
- Working with residents, ratepayers, stakeholders and businesses to encourage compliance with relevant laws, regulations and policies.

6. Process of investigation

- Review internal and external databases;
- Conduct site visits to ascertain if there are any issues and provide time frames to achieve compliance;
- Provide extensions to time frames to achieve compliance where reasonably required; and
- Conduct Form 2/Notice of Determination approval and refusal audits for planning applications received.

7. Enforcement options

- (a) No enforcement action taken;
- (b) Referral to an external agency or relevant authority;
- (c) Requests for retrospective development approvals (if applicable) or removal of unauthorised developments in accordance with relevant legislation and Town Planning Scheme;
- (d) Infringement notices issued under relevant legislation;
- (e) Direction notices;
- (f) Orders and notices issued under relevant legislation; or
- (g) Prosecution action; or
- (h) A combination of the above.

8. Offence Categories

Where an investigation is undertaken and it is considered that there is sufficient evidence, the Shire will take the appropriate enforcement action based on the specific circumstances of each individual case, and based on the following offence categories:

Minor: A minor offence is a breach of legislation, which has a minimal impact on the community, a person or the environment. The breach may be able to be resolved in a relatively short timeframe without any further impact on the community or the environment once compliance has been reached.

Moderate: A moderate offence is a breach of legislation that may initially have minimal impact on the community, life, critical infrastructure, property, or the environment but if allowed to continue the impact may have a major or more significant impact on the community. The breach may initially be able to be resolved with an infringement, directions notice or order under relevant legislation.

Major: A major offence is a breach of legislation that significantly affects or risks the health and safety of the community, life, critical infrastructure, property, or the environment. It may also be



a case whether the issue cannot be resolved in a relatively short timeframe or where the alleged offender is not willing to cooperate or negotiate in order to achieve compliance and which may lead to a prosecution action.

The offence category is subject to review during the investigation process.

The Shire further notes that the enforcement actions contained in the above definitions are not exhaustive to each particular definition.

9. Compliance Investigations

9.1 Investigation of complaints (Reactive Compliance)

Complaints will be prioritised for investigation based upon the offence category set out in clause 8 of this policy.

Decisions on enforcement action may have regard to any or all of the following considerations:

- (a) whether there has been a failure to comply with any request, direction or notice given by the Shire;
- (b) recommendations made at the Development Assessment Unit;
- (c) whether the breach or offence was committed wilfully or unknowingly;
- (d) any mitigating or aggravating circumstances (including vexatious complainants);
- (e) any demonstrated history of non-compliance;
- (f) the length of time since the incident (including statutory time frames);
- (g) the potential short and long-term consequences of non-compliance; and
- (h) legal precedents.

The Shire may take no enforcement action after an investigation where:

- (a) having considered the nature of the non-compliance, an educative approach to preventing the matter from continuing or reoccurring is considered most appropriate;
- (b) there is insufficient evidence to prove non-compliance after reasonable attempts have been made by the Shire to investigate the matter;
- (c) the individual or entity has discontinued or removed the unauthorised development or has obtained the relevant approval(s);
- (d) having regard for the capacity of the owner or occupier of the land, it is determined that an alternative approach to achieving compliance is more appropriate; and
- (e) the matter is considered trivial in nature, or would be an unreasonable use of the Shire's resources.

The Shire understands that some complaints received in relation to compliance issues may be the result of neighbourhood disputes. The Shire may discontinue an investigation of a complaint where it can be reasonably ascertained that the complaint is unsubstantiated or pertains to a civil matter. The Shire will not provide advice in relation to civil matters.

9.2 Audits, patrols, and checks (Proactive Compliance)

The Shire may carry out proactive compliance in the following manner:

- (a) carry out audits of Form 2 planning approvals and refusals;
- (b) carry out yearly audits of extractive industry licencing and conditions;



- (c) investigate compliance issues observed by Shire officers during the course of daily work related activities; and
- (d) conduct proactive compliance through an annual work program.

9.3 Conclusion of an investigation

At the conclusion of an investigation, Shire officers shall use the most appropriate action based on this policy in conjunction with the Compliance and Enforcement Matrix.

Complainants will be advised in writing of the outcome of the investigation (subject to confidentiality requirements) and the compliance matter closed.

10. Acting in default of Notices or Orders

The Shire may undertake works as specified in the notice or order to restore the land as nearly as practicable to its condition immediately before the development started or execute that work as it directed that person. The Shire may be entitled to recover its expenses in a court of competent jurisdiction.

11. Prosecution Actions

11.1 Initiation of proceedings

The Shire may determine to instigate prosecution proceedings under an Act, Regulation or Local Law where the Shire considers that the offence warrants such action.

The Shire may consider the following when determining whether to initiate prosecution proceedings:

- (a) the seriousness and nature of the offence;
- (b) legal advice received by the Shire;
- (c) any evidence of contempt or disregard for the law;
- (d) any public health or safety impacts resulting from the offence; and
- (e) whether the prosecution is in the public interest.

11.2 Withdrawal of prosecution proceedings

The Shire may consider the following when determining whether to withdraw from prosecution proceedings:

- (a) legal advice received by the Shire; or
- (b) in the opinion of the Chief Executive Officer, an appropriate level of compliance has been achieved; or
- (c) an error of law or fact; or
- (d) the owner or occupier of the land is deceased or cannot be located.

11.3 Appeal of infringements, notices or orders

In the event that an infringement, notice or order is appealed in accordance with the relevant legislation, the Shire may be required to substantiate its actions to a court or tribunal. This may result in the infringement, notice or order being overturned, amended or subject to mediation.

**12. Delegations**

Refer to Register of Delegations and Sub-delegations (as amended).

Definitions

Not applicable

Relevant Policies/Council Documents

Not applicable

Legislation/Local Law Requirements

- *Building Act 2011 and Building Regulations 2012*
- *Bushfires Act 1954 and Regulations*
- *Caravan Parks and Camping Grounds Act 1995;*
- *Caravan Parks and Camping Grounds Regulations 1997*
- *Cat Act 2011 and Regulations*
- *Cemeteries Act 1986*
- *Control of Vehicles (Off Road Areas) Act 1978 and Regulations*
- *Dog Act 1976 and Regulations*
- *Emergency Management Act 2005 and Regulations*
- *Environmental Protection Act 1986 (Public Health component only)*
- *Environmental Protection (Noise) Regulations 1997*
- *Environmental Protection (Unauthorised Discharge) Regulations 2004*
- *Graffiti Vandalism Act 2016 and Regulations*
- *Food Act 2008 and Regulations*
- *Health (Miscellaneous Provisions) Act 1911*
- *Litter Act 1979 and Regulations*
- *Local Government Act 1995 and Regulations*
- *Local Government (Miscellaneous Provisions) Act 1960*
- *Planning and Development Act 2005 and Regulations*
- *Public Health Act 2016 and Regulations*

Office Use Only

Relevant Delegations	Refer to Register of Delegations and Sub-delegations (as amended).			
Council Adoption	Date	22/05/2017	Resolution #	OCM052/05/17
Reviewed/Modified	Date	18/12/2017	Resolution #	OCM179/12/17
Reviewed/Modified	Date	16/09/2019	Resolution #	OCM195/09/19



Appendix 1

Compliance Matrix – Building Services

Offence Description	Statutory Authority	Offence Category		
		Minor	Moderate	Major
Building Compliance				
Unauthorised swimming pool or spa	Building Act s9			x
Authorised swimming pool or spa – no security barrier	Building Regs r50			x
Non-compliant pool barrier – hinges, windows	Building Regs r50	x		
Non-compliant pool barrier – non-compliant barrier (height, gates swinging in wrong direction, openings too large)	Building Regs r50			x
Unauthorised building work	Building Act s9,		x	
Unauthorised Demolition	Building Act s10			x
No Notice of Completion	Building Act s33	x		
Non-compliance applicable Building Standards – After completion	Building Act s37		x	
Non-compliance applicable Building Standards – Demolition	Building Act s38		x	
Occupying a building without Occupancy permit	Building Act s41		x	
Non-Display or non-notification of Occupancy Permit	Building Act s42	x		
Occupation use to comply with Occupancy permit	Building Act s43		x	
Occupancy permit – General Compliance	Building Act s44		x	
Encroachments outside of works land	Building Act s76			x
Adverse affect to other land without consent	Building Act s77			x
No protection Structure on or over land without consent	Building Act s78		x	
Work not to affect party wall without consent	Building Act s79		x	
Removal of dividing fence without consent	Building Act s80		x	

Major: A major offence is a breach of legislation that significantly impacts or risks the health and safety of the community, a community member or the environment. It may also be a case where the issue cannot be resolved in a relatively short timeframe or where the alleged offender is not willing to cooperate or negotiate to achieve compliance.

Moderate: A moderate offence is a breach of legislation that may initially have minimal impact on the community, community member, or the environment but if allowed to continue the impact may have a major or more significant impact on the community. The breach may initially be able to be resolved with a warning or an infringement, however, if allowed to continue could escalate into a major breach which may require issuing notice or prosecution action.

Minor: A minor offence is a breach of legislation which has a minimal impact on the community, a community member or the environment. The breach may be able to be resolved in a relatively short timeframe without any further impact on the community or the environment once compliance has been reached.



Compliance Matrix – Engineering Services

Offence Description	Statutory Authority	Offence Category		
		Minor	Moderate	Major
Local Government Act 1995				
Unauthorised works within road reserve/POS	Schedule 9.1 (8)		X	
Damage public Infrastructure	Schedule 9.1 (8)		X	
Discharge stormwater into public land/Road	Schedule 9.1 (10)		X	
Wind erosion or sand drift	Schedule 9.1 (12)		X	
Cemeteries Local Law 2005				
Excessive Speed	Clause 5.4		X	
Unauthorised use – driving of vehicles	Clause 5.4	X		
Placing of rubbish and surplus materials	Clause 7.3	X		
Leaving uncompleted works in an untidy or unsafe condition	Clause 7.7	X		
Animal at large	Clause 8.1		X	
Dumping of rubbish	Clause 8.5	X		
Unauthorised advertising and or trading	Clause 8.6	X		
Disobeying sign or lawful direction	Clause 8.7	X		

Major: A major offence is a breach of legislation that significantly impacts or risks the health and safety of the community, a community member or the environment. It may also be a case where the issue cannot be resolved in a relatively short timeframe or where the alleged offender is not willing to cooperate or negotiate to achieve compliance.

Moderate: A moderate offence is a breach of legislation that may initially have minimal impact on the community, community member, or the environment but if allowed to continue the impact may have a major or more significant impact on the community. The breach may initially be able to be resolved with a warning or an infringement, however, if allowed to continue could escalate into a major breach which may require issuing notice or prosecution action.

Minor: A minor offence is a breach of legislation which has a minimal impact on the community, a community member or the environment. The breach may be able to be resolved in a relatively short timeframe without any further impact on the community or the environment once compliance has been reached.



Compliance Matrix – Planning Compliance Services

Offence Description	Statutory Authority	Offence Category		
		Minor	Moderate	Major
Development Compliance				
Unauthorised Tree Clearing	TPS 2		X	
Unauthorised Land Use			X	
Unauthorised Development – Structures	TPS 2	X		
Unauthorised Development – Sea Containers	TPS 2		X	
Unauthorised Commercial Vehicles	TPS 2	X		
Unauthorised Transport Depot	TPS 2		X	
Unauthorised Fill/Excavation	TPS 2		X	
Unauthorised Home Business	TPS 2	X		
Breach Form 2 Conditions			X	
Unauthorised Signage		X		
Extractive Industries:				
<ul style="list-style-type: none"> No Approval 	Extractive Industries Local Law			X
<ul style="list-style-type: none"> Breach of conditions minor 	Extractive Industries Local Law	X		
<ul style="list-style-type: none"> Breach of conditions major 	Extractive Industries Local Law			X
Unauthorised land use - horses	TPS 2	X		
Unauthorised home occupation	TPS 2	X		

Major: A major offence is a breach of legislation that significantly impacts or risks the health and safety of the community, life, critical infrastructure, property, or the environment. It may also be a case where the issue cannot be resolved in a relatively short timeframe or where the alleged offender is not willing to cooperate or negotiate to achieve compliance.

Moderate: A moderate offence is a breach of legislation that may initially have minimal impact on the community, life, critical infrastructure, property, or the environment but if allowed to continue the impact may have a major or more significant impact on the community. The breach may initially be able to be resolved with a warning or an infringement, however, if allowed to continue could escalate into a major breach which may require issuing a directions notice or prosecution action.

Minor: A minor offence is a breach of legislation which has a minimal impact on the community, a community member or the environment. The breach may be able to be resolved in a relatively short timeframe without any further impact on the community or the environment once compliance has been reached.



Compliance Matrix – Ranger Services

Offence Description	Statutory Authority	Offence Category		
		Minor	Moderate	Major
Ranger Services				
Unregistered Dog	Dog Act S7(1)	X		
Unregistered Cat	Cat Act S5(1)	X		
Wandering Dogs – Private Property (Dog in a place without Consent)	Dog Act S33A(3)		X	
Wandering Dogs – Public (Dog not held or tethered in public place)	Dog Act S31(3)		X	
Dog Attack - Causing Physical Injury	Dog Act S33D(1)			X
Dog Attack - Causing No Physical Injury	Dog Act S33D(2A)		X	
Restricted Breed or Declared Dangerous Dog Offences	Dog Act S33E			X
Dog Causing a Nuisance by Barking	Dog Act S38(5)		X	
Collection of Stray Dogs – Vet Establishments	Local Government Act	X		
Collection of Stray Dogs - Community	Dog Act S29	X		
Collection of Stray Cats – Vet Establishments	Local Government Act	X		
Collection of Stray Cats - Community	Cat Act S27	X		
Parking Control – School Parking	Parking Local Law		X	
Parking Control – Illegal General Parking	Parking Local Law	X		
Parking Control - Obstruction	Parking Local Law		X	
Livestock – Wandering at Large	LG Miscellaneous Provisions Act & Local Law			X
Livestock - Trespassing	LG Miscellaneous Provisions Act		X	
Abandoned Vehicles - General	Local Government Act	X		
Abandoned Vehicles - Obstructing	Local Government Act		X	
Litter – Building Development Sites	Litter Act		X	
Litter – Illegal Dumping	Litter Act		X	
Litter – Household Rubbish	Litter Act	X		
Signage – Builders Signs	Signs Local Law	X		
Signage – Advertising Signs	Signs Local Law	X		
Signage – Nuisance signs	Litter Act	X		
Unightly Properties	Local Law	X		
Illegal Camping	Local Government Act	X		
Registration Enquiries	Dog & Cat Act's	X		
Pound Transfer	Local Government Act, Dog Act, Cat Act	X		



Continued

Council Policy – General Compliance and Enforcement

Major: A major offence is a breach of legislation that significantly impacts or risks the health and safety of the community, life, critical infrastructure, property, or the environment. It may also be a case where the issue cannot be resolved in a relatively short timeframe or where the alleged offender is not willing to cooperate or negotiate to achieve compliance.

Moderate: A moderate offence is a breach of legislation that may initially have minimal impact on the community, life, critical infrastructure, property, or the environment but if allowed to continue the impact may have a major or more significant impact on the community. The breach may initially be able to be resolved with a warning or an infringement, however, if allowed to continue could escalate into a major breach which may require issuing a directions notice or prosecution action.

Minor: A minor offence is a breach of legislation which has a minimal impact on the community, a community member or the environment. The breach may be able to be resolved in a relatively short timeframe without any further impact on the community or the environment once compliance has been reached.

GOVERNANCE COMMITTEE CHARTER

1. Operation

The Committee will operate in accordance with the requirements of *the Local Government Act 1995 (the Act)* and Regulations, City of Melville policies, procedures, delegations and relevant best practice standards and guidelines.

2. Objectives/Terms of Reference

To provide guidance and assistance to the Council on matters of Corporate Governance other than Financial Management, Audit, Risk and Compliance issues, as these will be monitored by the Financial Management, Audit, Risk & Compliance Committee.

The Governance Committee is to ensure that appropriate standards are applied by the Elected Members of the Council and its various Committees as well as the Officers of the Council when performing the functions delegated to them, or for which they are specifically made responsible for by *the Local Government Act 1995*. The Committee will promote excellence in governance within the City of Melville by:-

- Nurturing a positive culture within the Council that promotes openness and honesty, in which appropriate questioning is encouraged and accountability is clear;
- Ensuring there is clarity about the roles of the Elected Members and Officers and that the statutory separation of powers and roles, as articulated in the Local Government Act 1995, and its regulations, is enforced;
- Fostering effective working relationships within and between the Mayor, Councillors, the Chief Executive Officer (CEO) and other officers of the City;
- Ensuring that appropriate professional development is available to Elected Members and that the new Elected Member induction program is relevant;
- Ensuring there are effective decision-making processes in place that reflect the transparency and accountability principles which underpin excellence in governance;
- Ensuring that effective delegations are implemented and maintained;
- Ensuring that the City of Melville has a documented approach to the governance of the City ;
- Ensuring that there is an active organisational performance management system in place that enables Elected Members and Officers to be openly accountable for their performance;
- Conducting an annual performance review of the City's and CEO's performance;



GOVERNANCE COMMITTEE CHARTER

- Ensuring that internal structures are established that provide for independent review of processes and decision-making to assist the City of Melville to meet its accountability obligations to its stakeholders;
- Ensuring that the City of Melville has a documented approach to stakeholder relationship management in the City
- Applying the City of Melville Code of Conduct and determining matters in relation to Elected Members and the CEO;
- Making recommendations to the Council concerning the payment of contested and/or claims beyond allowances or reimbursement of expenses to Elected Members;
- Exercising oversight of the Council policies relating to Civic and Ceremonial Functions and Elected Members Allowances and Claims for Expenses and Conference Attendance.

3. Membership

- In accordance with Section 5.8 of the *Local Government Act 1995*, members of the Committee will be appointed by absolute majority decision of the Council;
- The Committee will comprise at least the Mayor, Deputy Mayor and four Councillors of the City of Melville;
- In accordance with section 5.11 of the *Local Government Act 1995* membership of the Committee will be reviewed following each Ordinary Election day i.e. once every two years, or upon the cessation of office by any member or the resignation from the Committee by a member.

4. Meetings

- The Chairperson will call and conduct meetings of the Committee in accordance with the City of Melville's Standing Orders and the *Local Government Act 1995* and Regulations;
- The Committee will meet at as required, with the timing of each meeting coinciding with the conduct of particular aspects of the City of Melville's business planning and performance reporting cycle;
- An agenda, and written reports on the business to be conducted at the meeting, will be prepared and distributed to Committee members at least 72 hours prior to the meeting;

GOVERNANCE COMMITTEE CHARTER

- Minutes of the Committee meeting proceedings and recommendations made will be taken and submitted to the next Ordinary Meeting of the Council for decision;

5. Reporting

Reports and recommendations of each Committee meeting shall be presented to the next Ordinary Meeting of the Council.

Last Review Date 18 November 2014 – Ordinary Meeting of the Council –
Item M14/5397
Document owner: Governance & Compliance Program Manager